

**PARLIAMENT OF KENYA**  
**THE NATIONAL ASSEMBLY**

**THE HANSARD**

**Tuesday, 22<sup>nd</sup> June 2021**

The House met at 2.30 p.m.

*[The Speaker (Hon. Justin Muturi) in the Chair]*

**PRAYERS**

**Hon. Speaker:** Hon. Members, there is no quorum. I direct that the Quorum Bell be rung.

*(Quorum Bell was rung)*

Very well. We now have quorum. We can start.

**PETITIONS**

**Hon. Speaker:** Member for Cherangany, Hon. Joshua Kutuny.

**FRAUDULENT SUBDIVISION OF LAND REGISTERED AS L.R. NO.12422/9**

**Hon. Joshua Kutuny** (Cherangany, JP): Thank you, Hon. Speaker. I rise to table Public Petition No. 22 of 2021 regarding fraudulent subdivision of land registered as L.R. No. 12422/9.

I, the undersigned, on behalf of the family of late Hon. Arthur Kinyanjui Magugu, draw the attention of the House to the following:

THAT, on 16<sup>th</sup> December 1982, a certificate of title was issued to Hon. Arthur Kinyanjui Magugu, now deceased, as the registered owner and proprietor of L.R. No.12422/9 measuring approximately 41.3 hectares;

THAT, on 19<sup>th</sup> February 1991, Hon. Arthur Magugu appointed the firm of Kamwere and Associates Surveyors to sub-divide the parcel of land upon obtaining the requisite consents;

THAT, the surveyor caused the aforesaid land to be sub-divided into two portions namely L.R. No.12422/203 and L.R. No.12422/204;

THAT, however, the surveyor, without the authority from Hon. Arthur Kinyanjui Magugu, did an illegal sub-division of L.R. No.12422/204 giving rise to two sub-divisions namely L.R. No.12422/318 and another L.R. No.12422/319, which forms the basis of this Petition;

THAT, on 25<sup>th</sup> October 1993, a certificate of sub-division by the Town Clerk City Council of Nairobi approving the sub-division of L.R. No.12422/204 into two parcels was registered on the same date and fraudulently transferred to Karura Investment Limited;

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THAT, further, the fraudulent transfer of the land to Karura Investment Limited is evidenced by among other things:

- (a) Karura Investment Limited fraudulently obtained a parallel title registered as L.R. No.12422/319 issued the same date the deceased was issued with L.R. No.12422/204;
- (b) The purported application for the consent to transfer is neither dated nor signed by the deceased;
- (c) The alleged application for the consent was made one month before L.R. No.12422/319 was created; and,
- (d) The alleged transfer dated 25<sup>th</sup> October 1993 is only executed by the alleged vendor and not the purchaser.

THAT, the matters raised in this Petition are not pending in any court of law in Kenya;

THAT, the petitioner, therefore, prays that:

- (a) pursuant to Standing Order 216 (5), the relevant committee of the House does investigate and inquire into all the matters raised in this Petition;
- (b) pursuant to Standing Order 216 (5), the relevant committee of the House makes a recommendation requiring the Registrar of Titles to cancel the fraudulent entries of title registered under L.R. No.12422/319; and,
- (c) pursuant to Standing Order 216 (5), the relevant committee of the House does make any other recommendations as it may deem appropriate.

And your petitioners will ever pray.

I thank you.

**Hon. Speaker:** That Petition is referred to the Departmental Committee on Lands. The next Petition is by the Member for Kibra, Hon. Benard Okoth.

#### PLEA ON ISSUANCE OF NATIONAL IDENTITY CARDS TO NUBIAN COMMUNITY

**Hon. Benard Okoth** (Kibra, ODM): Thank you, Hon. Speaker. I rise to present Public Petition No. 23 of 2021 regarding discrimination in accessing national identity cards (IDs) by the Nubian Community.

I, the undersigned, on behalf of the Nubian Community in Kenya, draw the attention of the House to the following:

THAT, despite being *bona fide* citizens of this Republic, members of the Nubian Community have continuously faced discrimination regarding the legitimacy of their citizenry that commenced when the British colonial government failed to legitimise their existence as a community, despite granting this recognition to railway labourers shipped from India;

THAT, successive governments since independence have adopted the same policy of denying the Nubians citizenship status and treating them as aliens, thereby hampering access by most Nubians to national identity cards and passports that subsequently restrict their access to public services, employment, education, business and involvement in political processes;

THAT, the 2019 National Population Census revealed a total Nubian population of 21,319 persons countrywide which further complicates the ability to elect representatives even at the county government level in a bid to secure their welfare at the grassroots;

THAT, Nubian students are unable to join institutions of higher learning to access Government funding through the Higher Education Loans Board (HELB) and other platforms due to restrictions, and delays in accessing and issuance of national identity cards on account of

cumbersome and discriminatory vetting processes which has had the multiplier effect of hindering the community's economic progress;

THAT, despite the Nubian Community being a marginalised and a minority community, the Government has failed to implement any affirmative action or policy to ensure active participation of Nubians in employment under the Public Service Commission (PSC), access to water, health, education and infrastructure as well as public participation in social, economic and political matters;

THAT, no member of the Nubian Community has ever been listed in any Government portal with regard to application, shortlisting or recruitment in the Civil Service;

THAT, Nubians are discriminated against along ethnicity and religious lines with regard to accessing identification documentation as exemplified by the fact that they are required to provide additional documents in support of their claims of Kenyan nationality such as religious certificates and grandparents' identity cards, are required to face a vetting committee and have to swear an affidavit unlike other Kenyans;

THAT, Nubians' right to Kenyan nationality has been acknowledged by the African Committee of Experts on the Rights of the Child as well as the African Commission on Human and People's Rights, and hence the Kenyan Government needs to likewise acknowledge this right particularly in view of the fact that Kenya has already ratified several international and regional instruments addressing the rights to nationality;

THAT, efforts by the Nubian Community to have this matter addressed by the relevant Government authorities have been futile; and,

THAT, the matters raised in this Petition are not pending in any court of law in Kenya.

Now, therefore, your humble petitioners pray that the National Assembly, through the Departmental Committee on Administration and National Security:

- (a) intervenes with the view to securing the recognition of the Nubian Community as a marginalised and minority community in Kenya;
- (b) secure the granting of citizenship status to the members of the Nubian Community in transparent and non-discriminatory processes;
- (c) secures the inclusion of the Nubians in all Government portals; and,
- (d) makes any other recommendation that it deems fit in the circumstances of the Petition.

And your petitioners will ever pray.

I thank you.

**Hon. Speaker:** That Petition is referred to the Departmental Committee on Administration and National Security.

Hon. Members, I am not allowing any comments or clarifications. The Petitions will stand committed to those committees for them to bring their reports.

Let us move to the next Order. We want to start business not later than 3.30 p.m. These petitions and other things are not business. They are just for entertainment.

### PAPERS LAID

**Hon. Amos Kimunya** (Kipipiri, JP): Thank you, Hon. Speaker.

Hon. Speaker, I beg to lay the following Papers on the Table of the House:

Reports introduced and adopted by the East African Legislative Assembly (EALA) at the 4<sup>th</sup> Meeting of the 4<sup>th</sup> Session of the 4<sup>th</sup> Assembly during the period, 6<sup>th</sup> to 26<sup>th</sup> April 2021:

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(i) Report of the Committee on Legal, Rules and Privileges on the Oversight Activity and Compliance with the East African Community (EAC) Protocol and Laws by the EAC Institutions (Phase Two);

(ii) Report of the Committee on Communications, Trade and Investments on the Capacity-Building Workshop;

(iii) Report of the Committee on Accounts to Assess the State of Implementation of the Assembly's Recommendations of the Audited Accounts for the Financial Year ended 30<sup>th</sup> June 2017 and 2018 for the East African Court of Justice (EACJ) and the East African Competition Authority (EACA);

(iv) Report of the Committee on General Purpose on the Capacity-Building Workshop to Enhance the Capacity of Members in the Legislative and Budget Oversight; and,

(v) Report of the Committee on Regional Affairs and Conflict Resolution on the Capacity-Building Activity.

Report of the Auditor-General and Financial Statements in respect of the Business Registration Service for the year ended 30<sup>th</sup> June 2019, and the certificates therein.

Reports of the Auditor-General and Financial Statements in respect of the following institutions for the year ended 30<sup>th</sup> June 2020, and the certificates therein:

(a) National Commission for Science, Technology and Innovation Training; and,

(b) Consolidated Bank of Kenya Limited.

I would like to highlight that the only way Members can keep abreast with the work happening within the EALA is through these reports. They may not come here through any committee. Members can access the reports from the Table Office and get to appreciate what is happening in EALA as part of the accountability process.

**Hon. Speaker:** Let us have the Chairperson of the Departmental Committee on Finance and National Planning.

**Hon. (Ms.) Gladys Wanga** (Homa Bay CWR, ODM): Sorry, Hon. Speaker. The good Member for Mumias East was consulting. Sorry, Mumias West. The Member for Mumias East is seated behind me. He was consulting.

Hon. Speaker, I beg to lay the following Paper on the Table of the House:

Report of the Departmental Committee on Finance and National Planning on its consideration of the Finance Bill (National Assembly Bill No.18 of 2021) Volume I.

**Hon. Speaker:** Let us have the Chairman or Chairperson, as the case may be, of the Budget and Appropriations Committee.

**Hon. Kanini Kega** (Kieni, JP): Thank you so much, Hon. Speaker. I beg to lay the following Paper on the Table of the House:

Report of the Budget and Appropriations Committee on its consideration of the Appropriation Bill (National Assembly Bill No.31 of 2021).

**Hon. Speaker:** Next Order. Is there anybody giving notice? That is a Bill. Next Order.

## QUESTIONS AND STATEMENTS

**Hon. Speaker:** Hon. Members, as we move to Order No.7 titled "Questions and Statements", for the convenience of the House and due to the business to be transacted today, there will be no statements. We will just deal with the Questions. After that, we will proceed with business.

The first Question is by the Member for Mavoko, Hon. Patrick Makau.

**ORDINARY QUESTIONS***Question No.199/2021*

## REASONS FOR THE HIGH COST OF ELECTRICITY IN KENYA

**Hon. Patrick Makau** (Mavoko, WDM-K): Thank you, Hon. Speaker. Pursuant to Standing Order No.42A(5), I wish to ask a Question to the Cabinet Secretary (CS) for Energy.

- (i) Could the Cabinet Secretary explain why, despite there being oversupply of electric power to the national grid, the demand is low?
- (ii) Could the Cabinet Secretary also explain why the cost of electricity in Kenya is high compared to other East African Community countries?
- (iii) Could the Cabinet Secretary further explain why Mavoko Constituency, in particular, and the larger Machakos County are yet to benefit from the Last Mile Connectivity Programme and indicate when the programme will be rolled out in the said area?
- (iv) Could the Cabinet Secretary provide a list of all the categories of electric power in the country, for example, solar, wind, hydro and any other source, indicating the amount of power each category feeds into the national grid?

**Hon. Speaker:** The next Question is by the Member for Narok South, Hon (Dr.) Korei ole Lemein. The Member has requested for deferment of the Question as he is out of the country on official duties. His request has been acceded to. The Question is deferred.

*Question No.200/2021*

## REHABILITATION OF JUNCTION-OLMEKENYU ROAD

*(Question deferred)*

Next is the Member for Emuhaya.

*Question No.203/2021*

## MEASURES TO ADDRESS INSECURITY IN EMUHAYA SUB-COUNTY

**Hon. Omboko Milemba** (Emuhaya, ANC): Thank you, Hon. Speaker. I rise to ask Question No.203/2021 to the Cabinet Secretary for Interior and Coordination of National Government.

- (i) What action is the Ministry taking to curb the increased cases of insecurity in Emuhaya Sub-County, particularly Ambali, Emakakha, Ebuyangu, Ipali and Ebukhaya areas of Emuhaya Constituency?
- (ii) When will the Ministry provide necessary motor vehicles, given that there are none, to Ambali, Emakakha and Ebuyangu police stations and police officers to Ipali and Ebukhaya police posts in Emuhaya Constituency, so as to facilitate security operations in those areas?

**Hon. Speaker:** The Question will be replied to before the Departmental Committee on Administration and National Security. Next Question is by the Member for Kaiti, Hon. Joshua Kimilu.

*Question No.204/2021*

INTERVENTIONS TO SAFEGUARD LIVELIHOOD OF PEOPLE AFFECTED  
BY LANDSLIDE IN NDUU SUB-LOCATION

**Hon. Joshua Kivinda** (Kaiti, WDM-K): Thank you, Hon. Speaker. I rise to ask Question No.204/2021.

- (i) Could the Cabinet Secretary explain the immediate action being taken to address the recent landslide incident in Nduu Sub-Location, Kilungu Sub-County, which resulted in damages to property thus rendering about 30 families homeless and causing an acute food shortage to more than 100 residents?
- (ii) What interventions has the Ministry put in place in the short-term and long-term to safeguard the lives and livelihoods of the affected residents?

**Hon. Speaker:** The Question will be replied to before the Departmental Committee on Administration and National Security. The next Question is by the Member for Ol Jorok, Hon. Michael Muchira.

*Question No. 206/2021*

PLIGHT OF DOMESTIC WORKERS IN THE MIDDLE EAST

**Hon. Michael Muchira** (Ol Jorok, JP): Thank you, Hon. Speaker.

*(Several Members stood in front of Hon. Michael Muchira)*

**Hon. Speaker:** The Members who are standing between Hon. Muchira and the Speaker are in breach of the Standing Orders.

**Hon. Michael Muchira** (Ol Jorok, JP): Thank you, Hon. Speaker. I rise to ask Question No. 206/2021 to the Cabinet Secretary for Foreign Affairs.

- (i) Could the Cabinet Secretary explain the measures being taken by the Ministry to facilitate the family of the late Lucy Wambui Ng'ang'a of Passport No. A2185564 to repatriate her body to the country for burial following her death which occurred on 22<sup>nd</sup> December 2020, while working as a domestic worker in Baghdad, Iraq?
- (ii) What actions has the Ministry taken to create awareness on the rising cases of bullying and mistreatment of domestic workers, especially those working in countries in the Middle East?
- (iii) What measures has the Government taken to protect Kenyans working in foreign countries, specifically in the Middle East?

Thank you, Hon. Speaker.

**Hon. Speaker:** The Question will be replied to before the Departmental Committee on Defence and Foreign Relations.

**Hon. David ole Sankok** (Nominated, JP): On a point of order, Hon. Speaker.

**Hon. Speaker:** For the second time, Question No. 205/2021 by the Member for Trans Nzoia County, Hon. Janet Nangabo. The Member is absent. The Question is dropped.

*Question No. 205/2021*

DELAYED REMITTANCE OF FUNDS TO *LINDA MAMA* PROGRAMME

*(Question dropped)*

What is your point of order, Hon. Sankok?

**Hon. David ole Sankok** (Nominated, JP): Thank you very much, Hon. Speaker. The Question that was asked by Hon. Michael Muchira, Member for Ol Jorok, should be directed to the Departmental Committee on Labour and Social Welfare because it is related to labour issues.

**Hon. Speaker:** The Member considered the matter and desired that it should be answered by the Departmental Committee on Defence and Foreign Relations. It is his choice.

**Hon. David ole Sankok** (Nominated, JP): Thank you.

**Hon. Speaker:** There are Members who have pressed the intervention buttons. Member for Mavoko.

**Hon. Patrick Makau** (Mavoko, WDM-K): Thank you, Hon. Speaker. When I asked my Question, you did not commit it to any committee. I asked the same Question last September.

**Hon. Speaker:** Your Question will be replied to before the Departmental Committee on Energy.

**Hon. Patrick Makau** (Mavoko, WDM-K): This is a repetition.

**Hon. Speaker:** If it is a repetition, what will I do? Should I tell you not to repeat the Question?

**Hon. Patrick Makau** (Mavoko, WDM-K): When you did not commit it in any committee, I became jittery. When I asked the same Question last time, I was not called to appear before the Committee. Machakos County did not enjoy 30 per cent of Last Mile Connectivity Programme. I thought that you would help me during this time.

**Hon. Speaker:** Hon. Makau, you cannot use that as an excuse to raise a debate because nobody will respond.

**Hon. Patrick Makau** (Mavoko, WDM-K): I stand guided, Hon. Speaker. Thank you.

**Hon. Speaker:** Hon. Wario Gufu, Member for Moyale.

**Hon. Qalicha Wario** (Moyale, JP): Thank you, Hon. Speaker. I requested for a Statement on security issues in Funan Idda, El Bor and Rawana areas on 11<sup>th</sup> February 2021. On 11<sup>th</sup> March 2021, I also asked for the same Statement which was a reminder in this honourable House. Before Parliament was closed because of the COVID-19 pandemic, I raised the same issue. To date, there is no reply.

The unfortunate thing is that those schools which were closed are still not opened. My people are not given the opportunity to go back to their homes. The building in Funan Idda area was broken into this morning. The doors of 37 houses were broken into. The belongings of those people were taken away by a lorry in a place where we have a police station just one kilometre away. I am still asking for your guidance on this matter. It is the Kenyan school children who are not studying because of insecurity situation in those areas.

What I asked for severally for almost four months is provision of security officers in those areas. The county government and National Government Constituencies Development

Fund (NG-CDF) built security houses where those officers can be stationed and live comfortably. I even went further and said that if possible, we can provide water because there is no water, or foodstuff. However, I am sorry because there is no action which has been taken to date by the Government. Kindly, I want you to give direction, so that we can be treated as Kenyans. I can see that there is laxity on the side of the people who are concerned.

Thank you, Hon. Speaker.

**Hon. Speaker:** If you are a foreigner, you would not be in this House. So, you are a Kenyan, Hon. Wario. Is it that the Statement that was given was inadequate or there was no response at all? I thought that there was an issue.

**Hon. Qalicha Wario** (Moyale, JP): Hon. Speaker, what was brought in this House was not the question that I asked. It was completely irrelevant. The CS said that Boranas are not honest people. We are goons. He also said that the settlement in Funan Idda area is not supposed to be there. I refuted this. We are Kenyans. We should be treated the way other people are treated. I refuted the Statement here in this House. I will give you more information. The late Hon. Koinange brought that Statement in this House. He said that this is not the kind of Statement that he can read in this House. It is the same mistake which was brought here. I refuted it.

**Hon. Speaker:** Who brought it here?

**Hon. Qalicha Wario** (Moyale, JP): The Vice-Chair of the Committee.

**Hon. Speaker:** I remember that there was somebody who alleged that citizens were goons. I thought that there was a direction that we gave.

**Hon. Qalicha Wario** (Moyale, JP): This is a very hot issue. You directed the Leader of the Majority Party to contact the CS. Hon. Makali Mulu said that the CS is never available in the meetings.

**Hon. Speaker:** There is a new Chairman now. Hon. Mwathi should set a date. It will be better if Hon. Wario Gufu is invited at the time when the CS is present, so that he can appear and show him that he represents those people who are not goons. You represent citizens of this country. If you get a copy of that Statement, go and ask him what he meant by referring to the people as dishonest and goons.

Where is the Chairman of the Committee? Hon. Mwathi! The Member has just said that when the former Chairperson, the Late Hon. Koinange, got that response, he said he could not bring it here because it was demeaning and derogatory. But I think the Vice-Chair decided to bring it here. Now, where are the Chair and the Vice-Chair? Could anybody know where the Chair is? Hon. Makali Mulu, I remember you raised an issue about that meeting.

**Hon. Makali Mulu** (Kitui Central, WDM-K): Thank you, Hon. Speaker. I want to report to the House that, as a result of your instructions that the Majority Leader chairs a meeting between us and the Cabinet Secretary, yesterday, we had a whole day meeting with the Cabinet Secretary and his team. Actually, all the Questions and Statements were responded to in yesterday's meeting. Through your intervention, the Cabinet Secretary is now behaving. I think it is good that when we call for the next meeting, I am sure he will be there and we can ask the Member from Moyale to come and face the Cabinet Secretary and seek clarification or ask questions.

On behalf of the Chair, I commit that I will report to him that in the next session with the Cabinet Secretary, we should invite the Member for Moyale.

**Hon. Speaker:** Yes. I think Hon. Wario should be invited. He will be able to raise those issues and let the Cabinet Secretary respond to them. This is just an issue of...



*(An Hon. Member spoke off-record)*

No. We are not discussing the Cabinet Secretary.

So, Hon. Wario, at the next Committee sitting, Hon. Makali undertakes to inform the Chairperson, through the secretariat, to invite you so that you can go and canvas those issues, but it is really unfortunate. Hon. Mulu, make sure that it does not take too long. He has said something very grave, that schools were closed in February and yet students are supposed to be in those schools.

Hon. Wario, do you want to say something?

**Hon. Qalicha Wario** (Moyale, JP): Thank you, Hon. Speaker. I agree with you and I will wait. But the only thing I ask is that because the situation is deteriorating further, can anything be organised as soon as possible? I heard of yesterday's meeting and when I asked the clerk, they said that they used the wrong number to reach me and yet, I have only been having one number throughout my life.

Thank you, Hon. Speaker.

**Hon. Speaker:** Just give them the only one number that you have.

*(An Hon. Member spoke off-record)*

We are not going to discuss that. That is not the issue. Hon. Washiali, have you pressed the intervention button? I want us to go to business.

**Hon. Benjamin Washiali** (Mumias East, JP): Thank you. Hon. Speaker, I rise to react on Question No. 205 which was meant to be raised by Hon. (Ms.) Janet Nangabo.

**Hon. Speaker:** You cannot react. Under what provisions of the Standing Orders are you reacting?

**Hon. Benjamin Washiali** (Mumias East, JP): Hon. Speaker, I want to plead with you because this Question was raised after some discussion with Members of Parliament because it is a cross-cutting issue. It is unfortunate that she is not here.

**Hon. Speaker:** Hon. Washiali, it is clearly shown that the Question is to be asked by the Member for Trans Nzoia County, Hon. (Ms.) Janet Nangabo. It could be a village or communal issue but you cannot ask it without her authority. It could be a communal issue but then, you should have indicated that you will be asking it communally. You all decided that Hon. (Ms.) Janet Nangabo was best placed to ask it as much as she has let you down. Just relax and stay with your decision of entrusting her as a community, if it is a communal issue. There is nothing we can do. If she does not know that she should be asking the Question today, I cannot resuscitate it. It is now dead. She will have to go and seek some other date from Room 8.

Hon. Duale.

**Hon. Aden Duale** (Garissa Township, JP): Thank you, Hon. Speaker. You have given direction on the issue of statements, but you need to help the Member for Moyale. It looks like he is facing a lot of stress on this security matter. You have given very good direction even through what Hon. Makali said. He needs to appear before the Cabinet Secretary with that Statement. Unlike other statements, he has been coming back with the same issue. I also want to advise him like this: You should not see yourself as a lesser citizen. You are a citizen. You represent the people of Moyale.

Hon. Speaker, now that the Vice-Chairperson has come, on this issue in Moyale, I remember that the Late Hon. Koinange went to that region and held many stakeholder meetings to get to the root cause of the problem, and a report was to be tabled in this House. We need to ask the Committee where that Report is so that Members can debate and see the recommendations. Outside the Statement, there was a...

**Hon. Speaker:** You know I cannot say anything in addition to what I was told because I was responding to him. Member for Wajir West, Hon. Mohamed Kolosh, I hope it is not about the same.

**Hon. Ahmed Kolosh** (Wajir West, JP): No. It is not the same but it is related.

**Hon. Speaker:** No, I do not want anything related.

**Hon. Ahmed Kolosh** (Wajir West, JP): This is the issue.

**Hon. Speaker:** Do you have an issue that you want to raise? You have pressed the intervention button.

**Hon. Ahmed Kolosh** (Wajir West, JP): Yes. It was about the same issue but my case happened as late as yesterday.

**Hon. Speaker:** No. He has talked about it himself. Now, Hon. Kolosh, you have not placed any Question. Do not use the Floor of the House to short-circuit procedures. If you have something about your place, you know the procedure.

Member for Emuhaya.

**Hon. Omboko Milemba** (Emuhaya, ANC): Thank you, Hon. Speaker. I bring to your notice what you have been told as good behaviour from the Cabinet Secretary for Interior. Yesterday, three of us were called in a hurry to go and receive our Questions which had taken a very long time. As you have been told that the Cabinet Secretary is now behaving, the behaviour is not good because you are asked to go and receive your answers at the last minute. That is what we went through and we were unable to get there on time. So, I wish that even as they come back as the Vice-Chair indicated, let us be given notice to go and get our answers on time.

**Hon. Speaker:** Hon. Members, are we forgetting the rules? I can see that everybody has become a chair. I will allow Hon. Makali Mulu to...

**Hon. Member:** The Vice-Chairperson is here.

**Hon. Makali Mulu** (Kitui Central, WDM-K): Hon. Speaker, by the time I was giving the Statement, the Vice-Chair had not come. But this is a House of records. We need to get it clear that it is not the Cabinet Secretary who invites Hon. Members to our Committee sittings. It is our own secretariat. We need to understand the rules. Even though Members are complaining, it is unfortunate because as I said, yesterday we had eight hours with the Cabinet Secretary and his team and seven Hon. Members were not able to make it to the meeting. I do not know whether it is our secretariat that is not doing their work or it is Members who are busy as usual. We are busy and we know it.

I want to plead with Members that even as we complain about the Cabinet Secretary, when we get the opportunity with him, which we now have, let them create time to attend the Committee sessions.

Thank you, Hon. Speaker.

**Hon. Speaker:** You know the Vice-Chair was not here. I look with disfavour on anybody who comes late. It does not matter whether you are a chair or the vice-chair of a committee. I mean, you cannot come after 45 minutes and you want to start raising your hand. *Kwani* you do not know the time when the House sits? It is not right. There is a lot that has been said and now you start taking us back. I have encouraged Chairs that when a Member does not come in good

time, just drop the Question! Do not even hesitate; drop it. Those are the rules. In fact, Hon. Makali, we are saying that if the Member who is asking the Question has not arrived at the appointed time, just drop it. You call it once, first time, you move to the next and the others and call it the second round. If the Member is not there, drop it. Let them come and complain and we will just tell them that we are sorry and that those are the rules. You have an opportunity at the tail end of this Parliament to amend the rules if you think that they are too harsh. Maybe, that time there will be no express way being constructed and you will not have an excuse. Then Hon. Pkosing' may have a Statement to make that if you were not there in time, you should not blame a traffic jam.

Surely, Hon. Members, if a Member has been notified, the secretariat must work and go an extra mile to ensure that the Members whose Questions appear on the Order Paper before a particular Committee are present. However, the route to go is like we have done with the Question by the Member for Trans Nzoia, notwithstanding the spirited effort by our very good friend, Hon. Jomo Washiali. The Question had to be dropped and it will have to go to the tail end of the others which have been asked. Those are the rules, so that people learn to, first of all, look at the Order Paper. It is always posted on the website. I normally see the Order Paper a day before the actual Sitting day. It is already posted on the website. Unless there are some Members who are not conversant with how to go about it... I suppose we had asked our ICT people to take Members who may be having those technical challenges through so that they do not have problems.

Even if you are in the village, you can always check so that you can tell the villagers to let you come and represent them here by asking questions on their behalf. Please, make a point, since you are a Member of Parliament, every Monday to check what is on the parliamentary website. That is assuming you do not want to check on Sunday, Saturday or Friday. Even if you are so busy with the villagers, tell them to allow you on Mondays to check. Indeed, they are your employers but they must also allow you to represent them. You ask the Questions on their behalf. Tell them that there is something that is so critical which you must go and ask on their behalf in Parliament.

Vice-Chairperson of the Departmental Committee on Administration and National Security, on the issue of Moyale, you heard the response that came and which everybody who listened to it agreed was unbecoming and quite insensitive even to the people of Moyale. Since there is an allegation that schools are still closed and school-going children are not in class, arrange another meeting with the Cabinet Secretary so that Hon. Wario Gufu, the Member for Moyale, is invited to come and face the Cabinet Secretary. Those are the directions.

We move to the next Order.

## PROCEDURAL MOTION

### REDUCTION OF PUBLICATION PERIOD OF A SPECIFIED BILL

**Hon. Speaker:** Chairperson, Budget and Appropriations Committee.

**Hon. Kanini Kega** (Kieni, JP): Hon. Speaker, I beg to move the following Procedural Motion:

THAT, notwithstanding the provisions of Standing Order No.120, this House resolves to reduce the publication period of the Appropriation Bill (National Assembly Bill No. 31 of 2021) from 7 days to 1 day.

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We have had the budget-making process from August last year. So, this is basically the tail-end of this process. When we are doing the Appropriation Bill, it is basically to give legal anchorage to what we pronounced ourselves on Thursday last week in the afternoon, when we did the Committee of Supply. We have been having this process ongoing and that is the reason we are requesting to reduce the publication period from seven days to one day because we have been dealing with this matter.

Secondly, we are heading towards the end of the financial year. We only have about five days. I beseech the House to agree with us so that we can reduce that publication period.

I beg to move and request the Leader of the Majority Party to second.

**Hon. Speaker:** Leader of the Majority Party.

**Hon. Amos Kimunya** (Kipipiri, JP): Hon. Speaker, I beg to second.

This is a very straightforward matter and is in line with our traditions and customs in the House that we do not have to wait for seven days to go through something we have already agreed on just the other day. Hence to unlock the process, I urge the House that we reduce the publication period.

Perhaps in future, we might have to reduce legally the publication period to a day. It is so straightforward. In the debate, we passed the Schedule that has been translated to this Appropriation Bill and the rest is for Members to internalise and see if there is anything we need to discuss within the next couple of minutes.

I beg to second.

*Hon. Charles Kilonzo consulted loudly)*

**Hon. Speaker:** Member for Yatta, you are on record as always providing answers behind the tent.

*(Laughter)*

I hope you are not behind the tent.

*(Question proposed)*

**Hon. Members:** Put the Question.

**Hon. Speaker:** It is the desire of the House that I put the Question.

*(Question put and agreed to)*

Hon. Members, as you deal with this, the suggestion made by the Leader of the Majority Party should be one of the issues the Procedures and House Rules Committee should also take into account given the very strict timelines when it comes to the Budget Estimates. The Budget Estimates highlights were given quite early this month. Nevertheless, you can see we still have a challenge of allowing the Bill to run for an entire seven days given that you still need appropriations. It looks like not everybody in the country appreciates what the Appropriation Bill does, Hon. John Mbadi. You hear some people saying that the Speakers of the two Houses go and regularise the Appropriation Bills of 2018 and that of 2019, and the people making those orders are beneficiaries of what the two Acts did. It is very interesting.

Let us proceed to the next Order.

**BILLS***First Reading*

## THE APPROPRIATION BILL

*(Order for First Reading read - Read the First Time and ordered to be referred to the relevant Departmental Committee)*

**Hon. Speaker:** Next Order!

*Second Reading*

## THE APPROPRIATION BILL

**Hon. Speaker:** The Chairperson, Budget and Appropriations Committee.

**Hon. Kanini Kega** (Kieni, JP): Thank you, Hon. Speaker. On behalf of the members of the Budget and Appropriations Committee and as mandated by Article 221 of the Constitution, Section 39 of the Public Finance Management (PFM) Act, 2012, and Standing Order No. 240B, it is my pleasure to move that the Appropriation Bill (National Assembly Bill No. 31 of 2021) be now read a Second Time.

As I move, I want to remind Members that there will be a lot of repetition because we did this when we were doing the Budget. We also did it when we were doing the Committee of Supply. So, most of these issues that we will be canvassing today are issues that we have already dealt with. All what we are doing today is to give the legal anchorage of what we passed through the resolutions.

Members, of course, may note that the resolution was passed on Thursday, 17<sup>th</sup> June 2021, through the Committee of Supply which approved the Expenditure Estimates for the Financial Year 2021/2022. Pursuant to the provisions of the National Assembly Standing Order No. 240B (2), upon approval of the budget estimates I am required, as the Chairperson, to introduce an Appropriation Bill. We are giving the legal instruments so that monies can now be disbursed to the various Ministries or agencies.

In reviewing the Appropriation Bill, 2021, the Committee held one meeting where extensive deliberations were held. Arising from those deliberations, the Committee made the following observations:

First, that a sum of Kshs1,495,000,000,000 is to be issued out of the Consolidated Fund for the services and purposes for the year ending 30<sup>th</sup> June 2022, while the Appropriations-in-Aid will account for Kshs446.2 billion.

Second, the allocation for public hearing domiciled in the National Treasury be moved to respective implementing Ministries as well as allocation of Kshs25 million for the New Kenya Planters Co-operative Union (KPCU) that was wrongly placed, and that needs to be moved to Kenya National Trading Corporation. In this regard, I would like to inform the House that I will be moving some amendments in the Committee of the whole House.

On the public hearing, we have a kitty of Kshs1.2 billion which, of course, each and every year we allocate to 12 counties. I am happy that my predecessor and his team were able to cover the entire country. So, in this financial year, each and every county in the Republic has

been covered in the public participation. We usually allocate Kshs100 million per county. It is the prerogative of the counties to make sure that they provide the details of the projects that they would want to implement. I am happy to report to this House that we have a report which I will also table.

Third, despite the Cabinet Secretary directing, during his public pronouncement here of the Budget policy highlights and revenue raising measures for the national Government, that all pending bills by the national agencies be cleared immediately, they continue to present a significant challenge in almost all sectors of the Budget. This has a negative impact on the economy as most of the businesses are having challenges in settling their debts. In fact, most of the businesses, and Members can attest to that, have closed down and others have been auctioned.

This is an issue that has been coming out every time that we have interaction either with the State Departments or with the CS, the National Treasury. When he was here, he gave a directive that all Ministries, Departments and Agencies, including county governments, that they must clear pending bills by 30<sup>th</sup> June 2021. However, that was not followed by actual commitments because all that financing must be budgeted for. Unfortunately, when we looked at the Budget itself and the Supplementary Budget, there is no provision for settling pending bills. As a House, we must now pronounce ourselves properly and decisively on this issue of pending bills.

We are told that, for example, road projects, have pending bills in excess of Kshs100 billion. If you ask most of the Members here, you will find that most of the road projects in their constituencies are not proceeding basically because there are some pending bills that have not been paid. It is high time we dealt with the matter because, for sure, it is a time bomb.

The fourth one is that the total cost of stalled projects is Kshs9 trillion. Now, Kshs9 trillion is the budget for three financial years. Those are monies that have been put in projects that have not been completed. We have also indicated and said that we have to have a proper roadmap on how we are going to complete those stalled projects. This is a worrying trend. As I indicated, there is a problem in adherence to the project guidelines that have been issued by the National Treasury. A policy must be implemented to ensure enforcement of the PFM Act and the Treasury guidelines.

Going forward, no new projects should be introduced before completion of ongoing projects. This has been a rhetoric question all the time when we have always been saying that before we embark on any new project let us, first of all, complete the ongoing projects because that is how we are accumulating pending bills.

For a long period, the mode of bidding for the resources has been based on historical allocation to the Ministries, Departments and Agencies within the various budgetary sectors. This has an effect on incremental budget year in, year out. This one, definitely, needs to change so that the MDAs that are in the production sector of the economy do not continue getting limited resources, for example, the State Department for Trade and Enterprise Development.

As I conclude, the Financial Year 2021/2022 Budget has been prepared against the background of significant resource constraints due to the adverse effects of the COVID-19 Pandemic on the economy. There is a limited resource envelop on account of economic under-performance and this has resulted into several budget constraints. Now, more than ever, the country must tighten its belt and limit its spending to high priority areas in order to ensure that the citizens' most urgent needs are met in a cost-effective manner.

The Schedule of the Appropriation Bill, 2021 as per the resolution of this House that was done on Thursday, 17<sup>th</sup> June 2021, through the Committee of Supply, recommended that this House resolves to approve the attached Schedule in the Appropriation Bill for the Financial Year 2021/2022, and also approves the National Treasury finalising the required Budget document as per the PFM Act on the detailed estimates

Hon. Speaker, I would want to move and request the Leader of the Minority Party, Hon. John Mbadi, to second.

Thank you.

**Hon. John Mbadi** (Suba South, ODM): Thank you, Hon. Speaker. There is very little to say now on the Appropriation Bill because we are all aware that the Appropriation Bill is derived from the product of Committee of Supply, as the Leader of the Majority Party and the Mover said.

This House considered the Report of the Budget and Appropriations Committee and passed it with amendments, which was later translated into Committee of Supply. We took several hours here in the Committee of Supply to discuss each and every vote for the Ministries and all the programmes. Now, what the Budget and Appropriations Committee has done, through the Chairperson, is to take that and translate it into a Bill which, if passed, will be assented to by the President.

I just want to say one thing: The reason why we are fast-tracking this Bill is due to the coming into force of the 2010 Constitution. Before the 2010 Constitution, we used to have what we called Vote on Account. Whenever we reached 30<sup>th</sup> June of a given financial year and the Appropriation Bill was still in process, the National Assembly would allow the Government to draw some money from the Consolidated Fund to meet expenses as we wait for the Appropriation Bill to be passed.

However, the 2010 Constitution made it mandatory that the Appropriation Bill must be passed by Parliament before we allow vote on account. So, the only time that the vote on account can be allowed is if the Appropriation Bill takes time to be signed by the President, which does not happen. The President has no reason to delay the Appropriation Bill. This provision has tied it. It has made the budget process tidy. We are now in a system where if the Government has to spend even one shilling, the Appropriation Act must be in place. That is good for this country. Even the Finance Bill has to be concluded before 30<sup>th</sup> June.

There is nothing much to say now. We know how much we are giving the Government and where the money is going to come from. This House has already deliberated and discussed this exhaustively. I want to conclude by urging the House that we finish this quickly so that we go to the Committee of the whole House which we should also finish quickly and move to the main agenda around this time which is the Finance Bill.

With those remarks, I second.

*(Question proposed)*

**Hon. Members:** Put the Question.

**Hon. Speaker:** Hon. Katoo, the Chair of the Departmental Committee on Defence and Foreign Relations, do you want to contribute to it?

**Hon. Katoo ole Metito** (Kajiado South, JP): It is very useful, Hon. Speaker. Thank you for indulging me. I can see the mood of the House is that we move to the next Order. I support the Motion. I will make two comments on the Appropriations-in-Aid. At times, I think our

National Treasury is not realistic in approximating the Appropriations-in-Aid. For instance, of the four agencies that my Committee oversees that is, the Ministry of Defence, the Ministry of Foreign Affairs, the Ministry of East Africa Community and Regional Development and the National Intelligence, two of them, the Ministry of Foreign Affairs and the Department of Regional Development Authority under the Ministry of East Africa Community, the Appropriations-in-Aid approximation has been overstated. If you take, for instance, the Ministry of Foreign Affairs which is Vote 1052, they are anticipating that it will collect Kshs550 billion from Appropriations-in-Aid. The only source of Appropriations-in-Aid here is the issuance of visas.

Initially, when this money was collected from the missions abroad, it used to be spent at those missions to mitigate the shortfalls of their budgets. Nowadays, whatever is collected in missions abroad is remitted directly to the National Treasury. My problem is that if we want those funds, in terms of appropriation, to be collected as much as we want, it will be good if we spread and allow many of our missions abroad to generate those funds even by issuing passports. Right now, that is done in only five of our missions abroad. It is good that we spread everywhere and we open up. They should be remitting only if they collect in excess of what is their budget gap. When you go to those missions abroad, they need so much money for them to run their activities. That is for the benefit of this country. Therefore, I request the Budget and Appropriations Committee together with my Committee to, in future, have a policy that will allow those missions to generate Appropriations-in-Aid and use it to fill the gaps of their resource requirements. Maybe, if they collect and have a surplus, that is what can be remitted to the National Treasury.

Finally, is on the Vote of the Department of Regional Development Authorities. They have been approximated to collect up to Kshs478 million in terms of Appropriations-in-Aid. But there is a problem here. The Department of Regional Development Authorities in the country has six authorities in number and they cover the whole...

**Hon. Speaker:** There is a point of order. Let us hear it.

**Hon. Katoo ole Metito** (Kajiado South, JP): Okay.

**Hon. (Dr.) Robert Pukose** (Endebess, JP): Thank you, Hon. Speaker. I have listened to Hon. Katoo, the Chair of the Departmental Committee on Defence. What he is raising should have been raised in the Committee of Supply. When he brings it here and he had an opportunity to appear before the Budget and Appropriations Bill to make that kind of request, it is unfair to the departments he is representing. He is making statements on the Floor of the House instead of acting on them and putting them in their right place. So, having listened to that, I rise under Standing Order No. 95 and request you to call upon the Mover to reply.

*(Laughter)*

**Hon. Speaker:** Hon. Katoo.

**Hon. Katoo ole Metito** (Kajiado South, JP): Hon. Speaker, I think my good friend, Hon. (Dr.) Pukose, should learn to listen. I have been here twice as many times as he has been here. He was going to stand under Standing Order No. 95. He is an expert in that. What I was saying are just proposals. This House can come up with policies. I am not saying that it should happen at this stage because we cannot amend the current Bill as it is. In terms of RDAs, they can generate a lot of Appropriations-in-Aid. What we need to do is to provide them with seed money to start projects. That way, they can be good in revenue generation. Allow me to mention two. The Lake Basin Development Authority has a mall in Kisumu. The Kerio Valley Development



Authority (KVDA) has a plaza that they can rent out. They have houses and a mango processing factory. If you go to the Ewaso Ngiro South Development Authority (ENSDA), they have a leather industry, but the National Treasury is not giving them money to complete and fund those projects. They are left to be self-sustaining. I will end there and allow the House to move to the next stage. I support.

**Hon. Members:** Put the Question.

**Hon. Speaker:** Hon. Members, the Member for Endebess claimed that the Mover be called upon to reply under Standing Order No. 95. Let me find out whether that is the mood of the House.

*(Question, that the Mover be now called upon to reply,  
put and agreed to)*

**Hon. Kanini Kega** (Kieni, JP): Thank you, Hon. Speaker. I want to thank all the Members. We have prosecuted this matter through this process and I will forever be indebted to all Members who have made contributions.

With those few remarks, I beg to reply.

*(Question put and agreed to)  
(The Bill was read the Second Time and committed  
to the Committee of the whole House)*

**Hon. Speaker:** Hon. Members, before we move to the next Order, to be fair to the process, the Clerk's Office should be advised to prepare the Appropriations Bill for the next stage which may be tomorrow afternoon.

Next Order!

#### THE FINANCE BILL

**Hon. Speaker:** Before consideration of the Bill starts, this is a more serious matter. In the olden days, this is what we used to call Ways and Means of financing the supply.

**Hon. Aden Duale** (Garissa Township, JP): On a point of order, Hon. Speaker.

**Hon. Speaker:** Hon. Duale, what is your point of order?

**Hon. Aden Duale** (Garissa Township, JP): Looking at the Order Paper, everything we are doing this afternoon, from the Appropriations Bill to the Finance Bill and the Supplementary Appropriations Bill, belongs to one arm of the government; that is, the National Treasury. It is also incumbent upon the Leader of the Majority Party and the Chair of the Budget and Appropriations Committee to take their time and go to the back office and ask why the Cabinet Secretary for National Treasury is not releasing Exchequer to the legislature. It is very embarrassing to be in the newspapers. And it is true.

**Hon. Speaker:** Can I give you comfort? Of course, I do not like being drawn into such things, but I had to get involved. So, that is sorted.

*(Applause)*

The more important aspect is that, really, it should never get to that. They cannot expect the National Assembly to deal with all the issues they request, while they do not appreciate that you have to survive and be able to breathe and breathe hard.

The Chair of the Departmental Committee on Finance and National Planning, Hon. Wanga, you have the Floor.

**Hon. (Ms.) Gladys Wanga** (Homa Bay, ODM): Thank you very much, Hon. Speaker. I beg to move that the Finance Bill (National Assembly Bill No.18 of 2021) be now read a Second Time.

As I begin, let me thank the Departmental Committee on Finance and National Planning for their dedication and the work that they put in to ensure that the Committee has a report shared with the House in good time.

For the record, the Finance Bill was published on 5<sup>th</sup> May 2021 and read the First Time on Tuesday, 11<sup>th</sup> May 2021. Thereafter it was committed to our Committee. The Bill sets out revenue-raising measures by the national Government and to amend specific tax laws and other statutes for effective collection of revenue as relates to the Budget of the fiscal year 2021/2022. The omnibus Bill seeks to amend the Income Tax Act, the Value Added Tax Act, the Excise Duty Act, the Tax Procedures Act, the Miscellaneous Fees and Levies Act of 2016, the Capital Markets Act, the Insurance Act, the Kenya Revenue Authority Act, the Retirement Benefits Act and the Central Depositories Act.

The Bill is being considered at a very delicate time when the Treasury and Members of this House have to balance between cushioning Kenyans from the COVID-19 pandemic, and at the same time raise sufficient revenue to finance the Ksh3.6 trillion Budget or the supply we have just done through the Appropriations Bill.

Again for the record, because many people will ask whether there was public participation, pursuant to Article 118 of the Constitution and Standing Order 127(3), the Committee conducted public participation. We received memoranda from a total of 56 stakeholders. I want to mention a few of the stakeholders who always participate. They always submit views. I want to mention them for their patriotism. One such stakeholder is Augstin Martin, a young Kenyan who at every point comes to participate and submits views to protect *wananchi*, and also to protect the Government from revenue leakage. We really thank him. Others are Asian Manufacturers and Kenya Private Sector Alliance, who are always there to make presentations. We listened to a total of 34 stakeholders who made oral presentations on many views that were proposed.

Clause 2 of the Bill seeks to reintroduce definition of the term “control”. Previously, control was defined as 25 per cent of the capital. The current proposal seeks to define control more widely. If a person holds, at least 20 per cent of voting rights in a company, then that person is considered to have control. If a person has advanced a loan of at least 70 per cent that person is considered to have control. If company X guarantees up to 70 per cent of a loan for company Y, then company X is considered to control company Y. If a person appoints more than a half of the board of directors, the person is considered to have control. If a person is the owner or has exclusive rights over the knowhow or copyright or patent, the person is also considered to have control. But then there is also another issue that the Committee discussed at length, which is paragraph (f) of Clause 2 of the Bill. It says that if company X supplies at least 90 per cent of the purchases of company Y, then company X is considered to have control of company Y. But the question that we raised is: Is that really a practical form of control? An example is people who supply specialised equipment or services.

For instance, Boeing supplies 100 per cent of the planes owned by Kenya Airways (KQ). Can Boeing be considered, just by virtue of that supply relationship, to have control of KQ? So, the Committee will be proposing certain amendments to state that this supply relationship can

only be considered control if the other person is considered by the commissioner to be influencing prices. If Boeing is supplying planes at a very high price, then KQ will declare very little profits. In that case, you will consider that Boeing is in control. If they are declaring small profits, it means reduction in taxes.

We listened to several views on this matter of control. Some even said we should delete this entire definition of “control”, but the Committee did not agree. The Committee will be making amendments to just streamline the issue of supply and purchase as factors of control, but will not be agreeing with stakeholders who said that this definition should be deleted.

The Bill also introduces the definition of the term “Infrastructure Bond” which will be issued by Government for financing of strategic infrastructural facilities including roads, hospitals, ports, sporting facilities and so on. Under this definition, “Infrastructure Bonds” or interest earned on them are exempted from income tax and can be used to finance projects as listed.

The reason we are defining “Infrastructure Bond” in the Income Tax Act, is to clarify the types of bonds that can qualify for exemption from income tax or interest earned on them.

There is also a move to define “Digital Service Tax” which was introduced last time. It is important because business is happening digitally because of this COVID-19 period. The Bill, therefore, seeks to define the term “Digital Marketplace” which means an online platform which enables users to sell or provide services or goods to other properties or users.

A lot of transactions are currently going on digitally. One of the amendments that have been made or that is being proposed is not just to talk about selling online, but also to introduce the term “electronically”. A company like Netflix is not selling online, but electronically. We are all watching Netflix and so on. If you just say “selling online or over the internet”, then you lose out companies such as Netflix.

More importantly, the Bill has provided an amendment to explicitly provide that the Digital Service Tax will only be payable by non-resident persons. I saw that there was a lot of fear among our local young emerging businesspeople saying that now digital tax is being levied on us, but this deal has clearly outlined the fact that the Digital Service Tax will only be paid by non-residents. If you are Amazon, Netflix and others operating outside, you will pay the Digital Service Tax. Those who are operating locally are already in the view of the KRA and will be charged the local taxes as they accrue.

The Bill also seeks to repeal the current provision on thin capitalization rules based on debt-to-equity ratio and substitute it with interest restrictions. This is a very important Clause because if related parties lend each other money; if Company X is related to Company Y and Company Y lends Company X money and charges very high interest rates of for example 30 to 40 per cent... Any interests paid currently are deductible when you are calculating your profits. Right now, the provision that is being made is such that the interest deductible will only be allowable up to 30 per cent if you are dealing with related parties. Only up to 30 per cent of interest will be allowed to be deducted from the amount for your profits.

The only exemption that the Committee is proposing to make is for institutions where interest is their business. These are banks, any institutions registered under the Banking Act and Micro, Small and Medium Enterprises. This is so that MSMEs are not adversely affected by this rule.

The Bill introduces a country-by-country reporting requirement on Kenyan multinationals headquarters referred to in the Bill as the ultimate parent entity. Kenyan multinationals headquarters are organisations such as KCB and Equity but are headquartered

here in the country. So, this new reporting requirement states that you will report on your activities here and other countries. The reason is so that in the event you are moving profits to other countries for purposes of tax planning, KRA will be able to tell. If your profits are disproportionately higher elsewhere, and yet here you are declaring them lower, then we can catch those who are evading tax.

In order to address the issue of investment allowance deduction, the Bill proposes to amend the Second Schedule of the Income Tax Act in order to change the basis of calculating the investment allowance from reducing balance to a straight line. We are trying to make sure that we simplify computation of capital allowances that are given to investments and especially, to reduce the period for recovery of capital costs. So, if you are supposed to recover your capital costs in three years and we do it on a straight line, you are going to do it in a shorter period than if it is on reducing balance because you are going to carry it for a longer period of time.

There is the whole definition of the term “permanent establishment” which is to help with knowing when your fixed place of business is considered to be in Kenya. If you look at Clause 2B, there are different periods provided for different businesses. If you start a farm or a plantation here, you will have 183 days which is six months for Kenya to be considered as your permanent establishment. It is important because once Kenya is considered your permanent establishment, then you start to pay taxes that accrue to businesses that are established here. You are no longer an expatriate moving and going. The only difference there is for consultancies. Consultancies have been put at 91 days. These are standards like OECD and UN standards. Most consultancies end after 30 to 52 months and it would have ended. So, if we leave them for too long, then we will have people coming in doing consultancies and going.

However, the other good thing that has been done here by the National Treasury is if I, Hon. Shakeel and Hon. Eseli have related companies, if we are going to do consultancies, each person’s 30 days will be added and we will be found to have done 90 days all together. This is so that nobody is escaping the tax rule on the issue of permanent establishment.

I am very happy with what has happened with National Hospital Insurance Fund (NHIF). The Bill introduces tax relief on individuals who contribute to NHIF to encourage uptake of NHIF. The amount of insurance to be claimed is equivalent to 15 per cent of the premiums paid with a cap of Ksh5, 000 per month. All the other medical schemes have an amount at which you have a relief. However, NHIF has been excluded from this. Therefore, this is very good; that now those paying NHIF will also qualify for this relief.

We now have Technical and Vocational Education and Training (TVET) institutions in many of our constituencies. In addition, we are churning out TVET graduates every year. The Bill proposes to expand applicability of tax rebates to employers who engage apprentices up to 10 for a period of one year. The Committee discussed this and also said 10 might be too high. If you look at a company that can actually take 10 TVET graduates for a whole year, that will be a very large company. Therefore, one of the proposals the Committee is making is to reduce this number from 10 to 5 so that more companies can benefit from this tax rebate and this is especially MSMEs.

Under the VAT Act, the Bill seeks to change the VAT status of exportation of taxable services. However, this means our transporters...Those who presented strongly to us were transporters who transport goods from Kenya to Uganda, Democratic Republic of Congo, Tanzania and other parts in the region. If you remove them from the zero rating, then they become non-competitive in the region. Someone will just go and establish himself in Tanzania. Their trucks will come from Tanzania, transport goods here and go back. Therefore, the

Committee has made a consideration for this and while the other services have been retained, transportation services have specifically been proposed to be retained as zero-rated. I am glad that National Treasury also does not have a problem with this because immediately we are going to have a shift because this is transport and it is moving; this is mobile. I can easily be headquartered in Uganda and still bring goods here. Therefore, if we do this to our transporters, our transportation sector especially at the Coast will be affected negatively. Therefore, the Committee has strongly considered that amendment to keep this as zero-rated, that is, transport other than by air or sea.

To address our tax expenditures, the Committee has agreed with the National Treasury's proposal to change status by removing the items from exemptions. There is a series of items there that you will see in the Bill. We have agreed on most of them. However, we have also agreed with a long series of items that have been added to the list of exemption and these are mostly medical items.

Hon. Speaker, the long list in the Bill, if you look at Clause 21, most of them are items that have been added to the list of exemptions and we agree with most of that except that those syringes are being removed from the exempt list. We do not see the logic of removing syringes. This is because right now we are talking about 100 per cent vaccination of our people. You cannot vaccinate against COVID-19 without using syringes. This is because it is not an oral vaccine. Therefore, the Committee proposes to return syringes to the list of exempt items because it is important to keep them there especially during this COVID-19 period.

The other item the Committee has proposed to retain is infant baby formula; a matter that Hon. Shakeel is very passionate about because he has four infants. He says he spends a huge sum of money on baby formula every week. To save on our mothers and our fathers who have infants, we believe that it is not time to tax baby formula at this point.

Hon. Speaker, the other item that the public is very passionate about is ordinary bread. This is because ordinary bread is stable for most families in Kenya today. Ordinarily, the Committee proposes that it is allowed to remain zero-rated. Even if you say that you are moving it to exempt and say the Government is going to raise revenue, the revenue you are raising is just going to be put on the *wananchi*. Therefore, we are only going to raise the cost of bread. There is a proposal to retain the cost of ordinary bread, flour, and all these things that relate to the issues of bread and eating. The basics at this time should be retained under zero rate. This is so that Kenyans have a bit of a lighter load. However, the Committee is also cognisant of the fact that we must raise money. Therefore, we will be making proposals concerning where we feel money can be found so that poor Kenyans can be protected but other people can pay the money so that there is no gap or hole in the revenue-raising plan. Hon. Speaker, bread is one of them and flour is another.

There is the proposal to remove the role of Parliament in consideration of VAT regulations. The Committee considered that and the Bill seeks to delete the role of Parliament in dealing with VAT regulations. Therefore, the Committee considered and said that this provision to remove the role of Parliament must be deleted so that Parliament retains its power in dealing with the issue of regulations of VAT, and so that on behalf of all the people we represent, Parliament can have oversight over this very critical matter.

Hon. Speaker, on the issue of Excise Duty, the Bill was proposing to amend rate of Excise Duty on motorcycles from Ksh11, 608 to 15 per cent of the excisable value. While the National Treasury made a spirited explanation on this matter, it might be a bit too complicated for this to be understood now and we fear that vendors might take advantage of that change to

overcharge motorcycle vendors. Therefore, we felt that since it is not even raising that much revenue, we should remove it and have a better explanation so that as we move forward, we do so with the previous position in mind. Hon. Speaker, the Committee is unanimous that we need to support the *Boda Boda* industry which has contributed significantly in youth employment. Therefore, that particular proposal on motorcycles the Committee... Even though it might not be adverse, it needs to be explained better so that when it is introduced it is done when it is understood by everybody.

Hon. Speaker, the Bill seeks to reintroduce Excise Duty on locally manufactured confectionery. This is a sector that is a very big employer for many Kenyans. The Committee feels that we need to protect the local manufacturers but maybe increasing excise on imported sugar and confectionery items so that we protect the local manufacturers but we excise higher, that is, from Ksh20 per kilo to Ksh35 per kilo for imported confectionery. That way we can protect our local jobs and local industries while still raising revenue in this sector. I hope that the House will agree with us on that particular matter.

Hon. Speaker, we must deal with the issue of betting. A proposal was made of a tax of 20 per cent. The Committee even proposes to lift this further to 30 per cent and distribute it among all the areas of betting. If you look at the Betting and Lotteries Act, it has four segments. It has betting, gaming and price competition - this is the one where people call and say, send this much, you will get this much. It is a growing form of gambling. Then, there is the lotteries especially the non-charitable ones. The Committee, therefore, proposes to increase this to 30 per cent but distribute it among all the four sectors of betting so that it is carried by everybody, not just by one person. The Committee will be making those proposals.

As I finish, there is the matter of how long documents should be retained by taxpayers. The Bill was seeking to move it from five years to seven years. However, in this era of digitization, there will be no need for KRA to require taxpayers to bear the burden of keeping documents for seven years. The Committee did not agree with that proposal. The Committee proposes to retain it at five years. Another interesting reason that came up is regimes in this country change every five years. Therefore, if in the sixth year, the new regime wants to catch up with the people from the former regime, they will just say bring your documents because you are supposed to keep them for seven years. They will then catch up with you and can take you round in circles.

There is an important matter on the Tax Procedures Act where this Bill seeks to ... let me just find it. Clause 33 of the Finance Bill (National Assembly Bill No.18 of 2021) says:

“Section 47 of the Tax Procedures Act, 2015 is amended by inserting the following new subsections immediately after subsection (4) -

(4A) Where the Commissioner notifies a taxpayer that an application for a refund has been ascertained in accordance with subsection (3), and applies the refund to the payment of an outstanding tax in accordance with subsection (4) (a) or (b), interest or penalties shall not accrue on the amount applied to the payment of the outstanding tax from the date of notification.”

The trick is, if KRA notifies you that they owe you, from that day of notification, there is no interest accruing on your part. This is a good clause but the Committee is stating that where you have this kind of claim, and it accrues new tax, it should be used to offset that new tax so that KRA owes you nothing and there is nothing for taxes to accrue on.

With those many remarks, on behalf of the Departmental Committee on Finance and National Planning, it is my privilege and honour to present to this House the Report of the

Committee on its consideration of the Finance Bill. The Committee is grateful to the offices of the Speaker and the Clerk of the National Assembly for the logistical and technical support. The Committee further wishes to thank all stakeholders who submitted their comments on the Bill. Finally, I wish to appreciate the Members of the Committee and the Members of the House for their support.

With those many remarks, I beg to move and request, my Vice-Chair, Hon. Member for Roysambu to second.

**Hon. Speaker:** Member for Royal Suburbs, you have the Floor.

**Hon. Isaac Ndirangu** (Roysambu, JP): Thank you, Hon. Speaker for giving me an opportunity to second this Bill, the Finance Bill (National Assembly Bill No.18 of 2021). At the outset, allow me to thank and congratulate my Chair for adequately and ably moving the Bill. I will just point out a few of the points the Chair might have left out. This includes that the Bill also seeks to increase the rate of withholding tax upon payment of service fees to non-resident subcontractors operating in the extractive industries from 5.625 per cent to 10 per cent. This applies to non-resident subcontractors who do not have a Kenyan permanent establishment.

I also want to emphasise that the Bill was seeking to reintroduce Excise Duty on locally manufactured confectionary but in our wisdom, we have decided that to protect the confectionary industry which employs hawkers, small kiosks and many small and medium enterprises, we plan to levy 35 per cent tax on all imported confectionary to support the hawkers, local industries among others.

I also wish to inform Members and reiterate that we are not adding Excise Duty on *boda bodas*, because we intend to promote and protect the *boda boda* industry for ease of communication. Every year, Kenya is registering about 20,000 *boda bodas*. They have been very helpful in linking Kenyans to points of destination or marketplaces. We also wish to inform you and the Members that in the proposed amendments, KRA seeks to increase the maximum reward to a person who provides information leading to identification of unassessed taxes from Kshs 100,000 to Kshs 500,000 and information leading to recovery of up to Kshs 2,000,000. The informer reward is an important component of enhancing tax compliance as it encourages informers to provide intelligence.

We are also supporting Retirement Benefits Authority (RBA) with an amendment which seeks to include post-retirement medical cover in the definition of Retirement Benefit as used in the Retirement Benefits Authority Act, in order to facilitate the authority to formulate regulations for registration and regulation of stand-alone and umbrella post-retirement medical funds. The proposed amendment seeks to require corporate trustee that provide services to pension schemes to be registered by RBA for the purpose of regulating them.

We also seek to empower the RBA to be able to help the pension schemes to recover monies held by defaulters. We give them authority to even attach. This will particularly be directed to those organisations like the universities, the former LAPTRUST and LAPFUND, which have been denied a lot of money from contributions of former local government workers.

With those few remarks, I beg to second. Thank you, Hon. Speaker.

**Hon. Speaker:** Hon. Members, even as I propose this Question, there is some interesting observation I want to make. Notwithstanding that the Chair of the Departmental Committee on Finance and Planning is a lady; there is only one more lady in the Chamber. Is it that matters to do with finance do not ring bells in... Surely, yet it is commendable that the Chair of the Departmental Committee on Finance and Planning has moved this Report of this Committee quite eloquently. Even as we talk about top up and two thirds, *thuluthi mbili*, people...

I noticed that Hon. Dennitah Ghati is always here and that is commendable. She is the only one. I noticed that the moment the issue of finance is started, everybody picks up his or her bag and walks away. They should be leaving those bags out there. They just pick bags and walk away. We are dealing with finance; ways of financing the Budget. Then they will say they want the National Government Affirmative Action Fund (NGAAF); they want money. From where? It is disgusting to notice that, but let me propose the Question.

*(Question proposed)*

Let us have Hon. John Mbadi, Leader of the Minority Party.

**Hon. John Mbadi** (Suba South, ODM): Thank you, Hon. Speaker. Allow me to support the Finance Bill. I also want to join you in thanking and congratulating the Chairperson of the Departmental Committee on Finance and Planning for that clear and elaborate moving of the Motion.

As Members will realize, this time round when we were passing the Budget Estimates, the revenue projection for the Government was very conservative and very modest, compared to previous years. If you are wondering why, then the solution and the answer are in the Finance Bill. If you look at this year's Finance Bill, the proposals and suggestions for various tax measures are very conservative. There are no major changes in various tax laws be it Income Tax, Pay As You Earn (PAYE), Value Added Tax, Exercise Duty and even the Tax Procedures and Miscellaneous Tax Laws. You can see very modest adjustments on the tax rates. It means, therefore, that the Government is not looking for new measures to raise revenue. What the Government is proposing is administrative methods of using the current tax rates to raise more resources. The more resources that the Government is looking for in terms of ordinary revenue is Ksh181 billion up from what was projected for the 2020/2021 Financial Year, that is Ksh1,594,000,000 to now the current projection of Ksh1,775,000,000.

Hon. Speaker, I want to highlight a few things and support what the Chair did say. On the issue of clear definition of infrastructure bond, we are moving towards funding most of our infrastructure, be it roads, water, sewerage system, *et cetera*, through issuance of bonds. If that is the case, then we must have and must make the infrastructure bonds more attractive by exempting them from certain categories of taxes. That is exactly what the Government is proposing and I support it fully.

As the Chair said, I just want to explain something which probably many Kenyans have not understood on this issue of Digital Service Tax that only non-residents will be paying it. Members may wonder, Kenyans may worry, about what is this non-resident. If you go to Income Tax Act, you will find the definition of residents and non-residents. By the way, there is a complete difference between a resident and a citizen.

In fact, you can become a resident by just coming to this country, living for 183 days in a year and you become a resident of this country. So, it is not the same as citizenship. Citizenship is totally different and we know how to acquire the citizenship of this country. If you come and stay here for some time, then you become a resident for tax purposes. So, I want to clearly explain that so that it is understood. Those who are wondering whether they will be required to now pay the Digital Service Tax and they are Kenyans, definitely they will not.

Hon. Speaker, the related parties issue is a very contentious issue. I see the Chair explaining it. Many businesspeople have used this provision to avoid tax. By the way tax avoidance is not illegal, it is very legal. So, people look for ways of avoiding tax but it is not



moral because they are denying Kenyans taxes that we need for service delivery. Looking at this whole question of related parties especially in terms of interest paid which becomes tax deductible, if I have two companies, as the Chair explained, company X and company Y, company X because it is making huge profits compared to company Y may decide to purport to sell money to company Y which then it would charge high interest and that high interest is not taxable and it is not deducted for tax purposes. To avoid this, we must put a cap so that it is not left for unscrupulous business people who we provide a conducive environment for to do business and after making huge profits, they decide to use the many companies that they own to avoid tax, there will be no legality in law but immorality in terms of being a responsible citizen. The Chair explained what Investment Allowance Deductible is. I do not want to go there.

I agree on the issue of the NHIF. If you get to pay insurance premium in the country, we know that insurance premium is deductible. When it comes to NHIF because it is also insurance, it is not. This is discriminatory, and the Government has made the right move to bring this also to those payments that are allowable for tax purposes.

I disagree a bit on the issue of reducing the number of employees which employers need to employ for these organizations to qualify for tax relief. To me, ten is a reasonable number because if we lower it too much, it is not going to motivate these companies or institutions to employ. The idea here is to employ more Kenyans, to give more Kenyans opportunity to offer services for some pay. So, if you lower it to five people and say that is enough... We need to motivate by putting a higher number that you require to employ for you to meet the threshold. To me, I thought the Committee should reconsider retaining the number at ten. I almost called you Madam Speaker, and I do not know why. Forgive me for that.

Hon. Speaker, on the issue of bread, I agree totally and we must insist that bread must be zero-rated. I know many Members or Kenyans out there who have low finance background may wonder what the difference between zero-rating and exemption is. If a commodity is zero-rated, it means that the input tax is also claimable. Right now, we are talking about bread. If bread is zero-rated, it means that if the wheat that went into making the bread was taxed, the person selling the bread will claim back the amount of tax that was paid on the wheat. If it is exempt, it means he will not charge tax on the bread but any tax that was paid preceding the manufacture of the bread will not be claimed. That tax will form part of the cost of the bread. When comparing exemption to zero-rating, zero-rating is better than exemption because it makes the cost of the bread cheaper. Let us not think that bread is now exempted. It is being moved from zero-rating to exemption which disadvantages the consumer because the final bearer of the cost will be the consumer. I agree completely that we must retain bread in the zero-rated bracket.

With regard to the powers of Parliament, we must just say no. I do not understand how the Cabinet Secretary (CS) can ask Parliament to surrender the power we have in setting the VAT rate to the National Treasury. It cannot happen. That cannot be the spirit of Article 210 of the Constitution that allowed this House to legislate on the taxes and fees paid. This is mischievous because for the CS of the National treasury to ask this, it means that he has realised that this Parliament is not a joke. Convincing us to vary the VAT rates is not easy. By the way, there is no taxation without representation. You cannot ask Parliament to surrender power to charge VAT or vary VAT rates. Bring those rates to Parliament for approval.

Right now, what would have happened with the bread is that the CS would have just decided to put VAT on bread and we would have had no recourse or capacity to reject that. You can now see that this House is even considering moving bread from zero-rated goods to exempted goods. It will hurt Kenyans if we make a mistake of allowing the CS to have absolute

powers in setting the VAT rates. Varying, changing or imposing VAT rates should be the exclusive mandate and responsibility of the people's representatives. That is why the people of Kenya brought us here to sit in this House and legislate on matters that concern them. There is nothing that concerns Kenyans more than taxation. Taxation is the most important thing that Kenyans would want us to participate in.

As I conclude, I also agree that the betting industry had some issues. There is discrimination. When you listen to radio stations, and I am sure it cuts across all languages, there is a lot of betting going on. You hear them announcing that if you pay Kshs100 or Kshs200, after every two hours you will earn Kshs100, 000 or Kshs500, 000. All that must be brought into the tax bracket so that there is uniformity.

Finally, on issues of accounting documents, I still want to persuade the Committee to reconsider rejecting the proposal by the Ministry to move it to seven years. We need to keep our records for a sufficient amount of time. Even if another Government comes into place, the more reason why we should keep documents. This is so that if anyone is in office, does bad things and thinks that once they leave nobody will follow them, they must know that the documents that they started dealing with from their first day in office will land in someone's hands immediately they leave office. People must be accountable. It would be better if we could even insist on keeping records for 10 years, so that people keep records. If there was misappropriation, embezzlement of funds or whatever you might have done during your tenure, it lands into some other office or officer's hands to deal with you.

People misuse public money as if it is their private money. When they leave, they go home with the loot and leave the wealth to their children and grandchildren. You then hear that so-and-so's grandparent really worked hard. He sold charcoal to be a billionaire. I wonder how many people can sell charcoal and become billionaires. Even if you tried to sell charcoal to be a billionaire today, you cannot. I do not know why they bore us with those fake stories of how people rose from grass to grace. That is what my friend, Ichung'wah, would call "hustler". It does not make sense. People must make money genuinely. I will go there because I have my chance. You will speak. I am not targeting anyone. In short, please, make money in a procedural manner. Be rich through hard work. Do not become rich by stealing then you tell us that you are a charcoal seller and now you own this and that. I do not want to mention the building because I do not want to get personal. What I am communicating - and this House will agree with me - is that we need accountability.

I have seen it and it is really annoying that there are some regions which are very poor. People are doing badly and the governors from those regions become millionaires within a very short period of time. People are suffering, there is no water to drink, there are no roads, people are dying, yet the governors are millionaires competing to be who is who in this country and who owns what. Owning Kenya will not help you. You will just die like the rest of us.

I support the Bill.

**Hon. Speaker:** Let us have the Member for Garissa.

**Hon. Aden Duale** (Garissa Township, JP): Thank you, Hon. Speaker. I support the Finance Bill, 2021. This is consistent with the court ruling. I am sure Hon. Mbadi, Hon. Kimunya and many who were in this House will agree with me that the Finance Bill used to be debated and approved in September. A court ruling changed the processing of the Finance Bill by the National Assembly. In line with the Public Finance Management Act Section 39(a), the submission, consideration and passage of this Bill and assent to by His Excellency the President must be concluded by 30<sup>th</sup> June 2021. This is a good move because it allows the CS for the

National Treasury and the Kenya Revenue Authority (KRA) to implement various tax measures on 1<sup>st</sup> July, at the beginning of the Financial Year 2021/2022.

The Finance Bill is trying to amend a number of pieces of legislation currently existing on VAT, excise duty, the Tax Procedures Act and miscellaneous levies and taxes. It touches on the Capital Markets Authority. If you allow me, tomorrow, I will have my say on the Capital Markets Authority as a regulator. They are the eyes and ears of investors. They are supposed to create, maintain and regulate capital markets in line with Section 11(1) (d) of the Capital Markets Act. Any investor who issues securities which are traded under their supervision must be fair. Tomorrow, I will ask the House, through you, to discuss the matter of Kenyan investors losing money under the watch of the regulator.

Let me look at the summary. My colleague, the Chairperson, has spoken about the infrastructure bond. Clause 2 of the Bill re-defines infrastructure Bond. This amendment aims at clarifying that only interest on income from infrastructure bonds for the maturity of a certain period, and it says three years, will be exempted from income tax. This is an important aspect in financing our infrastructure facilities, whether they are in health, water, roads and energy.

Let me look at the expansion of the tax rebate for the apprenticeship of TVET institutions graduates. I do not know why the Chair wants to amend it to five persons. One of the Bills says that an employer who hires at least 10 TVET students for a period of six months to one year will get that tax rebate. I ask the Chair of the Committee to leave it at 10, so that more students can be hired. The law that we passed two years ago states that you should hire at least 10 university students to get a tax rebate. So, let us maintain 10 students. This is great news to students who will graduate from our TVET institutions which this Government has invested in.

There is a move towards private electricity companies in this Bill. Clause 12(e) of this Bill proposes to remove the current requirement that electricity has to be supplied to the national grid for generation of the same that will fall under the definition of manufacture. You manufacture electricity, sell it and use the national grid as the infrastructure. According to Clause 12(e), it becomes a prerequisite or condition to qualify for investment deduction on a number of issues that you need for an investor to put in either equipment, machinery or buildings that are used in the manufacture of this power. This amendment states that any person who invests in electricity generation for private business, there are people who do it, in big companies that consume two, three, four or five megawatts can manufacture his electricity for private business use or sell it to persons of his choice. I can manufacture electricity and sell it to Hon. Mbadi who is my neighbour or Hon. K.J. That is what Clause 12(e) is specific about.

The Bill says that these investors will qualify for investment deduction on costs. This is likely to open a window for licensing of private electricity companies. We need to support this amendment. It will reduce the monopolistic tendencies of Kenya Power and Lighting Company (KPLC). If there are investors who can supply power to a certain locality, we have off-grid now, and we must support them, so that KPLC can compete with them.

What I cannot imagine, and Hon. Mbadi has talked about it, is the scrapping of the pre-approval of VAT regulation by the National Assembly. This touches on the core of the constitutional principle of separation of powers. The Cabinet Secretary sits in the Executive but he wants to exercise powers in the Legislature. We should not allow that. Even if the President returns it with a veto power, I urge my colleagues to raise the two-thirds number to reject it. The Constitution has donated powers to the three arms of the Government. Nobody should become a squatter. Nobody should steal the power of another person. It is very dangerous for a CS to sit in his boardroom and vary VAT on various items without recourse to this House. The National

Assembly will be guilty. This House will go into record of abdicating its constitutional duty by allowing any other person, including the CS for the National Treasury, to impose any form of taxation, levies and fees on the people whom we represent. This is an affront to the separation of powers. We, as Members of this House, must protect what the Constitution has given us.

There is the imposition of 16 per cent on VAT on bread. It was exempted from taxes and then it was zero-rated. However, it will now be charged 16 per cent VAT. Under these Covid-19 conditions, bread is basic food. This proposal to subject ordinary bread to VAT will affect ordinary citizens.

Finally, there is abolition or amnesty on rentals tax. This amendment implies that any property owner who wants to claim amnesty on rental will rely on Section 37(d) of the Tax Procedures Act.

**Hon. Speaker:** Member for Kisumu East.

**Hon. Shakeel Shabbir** (Kisumu East, Independent): Thank you, Hon. Speaker. The Appropriation Bill that we have just passed specifies the quantum of purposes and how to withdraw money. It is not straightforward as it was stated.

I refer now to the Finance Bill which contains the provisions of financing the expenditure of the Government. In all types of budgets, even the ones that we make at home; we start with how much money we have and how much we will spend. Unfortunately, the Budget-making process that we go through here is the other way round. We first decide what we want to spend and then we go and see how we will raise it. This negates the whole process of Budget-making. This is something that we have talked about for a very long time.

*(The Speaker (Hon. Justin Muturi) left the Chair)*

*[The Temporary Deputy Speaker  
(Hon. Patrick Mariru) took the Chair]*

We should do the zero-based budgeting, performance-based budgeting or a cruel system of budgeting but not the incremental budgeting that we do. Let us go back to the Finance Bill which has a number of issues that I support. Firstly, I am a ranking Member of the Departmental Committee on Finance and National Planning. Only the father of the House, Hon. Jimmy Angwenyi, has been there longer than I have. I want to state categorically that I have been the Member of the Departmental Committee on Finance and National Planning since 2007.

I want to take my hat off and acknowledge that we have the most effective Departmental Committee on Finance and National Planning under the Chair, Hon. Gladys Wanga. We had our doubts but she has come through with sterling performance. She holds us together. I have never seen all Members of the Departmental Committee on Finance and national Planning in a workshop working flat out. This is because of the leadership that we have. I want to take my hat off to Hon. Gladys Wanga who is the Chair and the Members of the Departmental Committee on Finance and National Planning.

Hon. Temporary Madam Speaker, as I said, I have been in the Departmental Committee on Finance and National planning...

**The Temporary Deputy Speaker** (Hon. Patrick Mariru): It cannot be Madam Speaker. It must never be and it can never be.

(Laughter)

**Hon. Shakeel Shabbir** (Kisumu East, Independent): I have been a member of the Departmental Committee on Finance and National Planning now for 13 or 14 years and I have never seen the sort of effectiveness that we have now. Our previous Chairpersons sometimes kept us in the dark and even made deals a few minutes before the Bill was passed. I remember one case when the Betting Act came and as a Committee we had agreed to go a certain way. For some reason which we leave to him and his conscience, the then Chairperson changed some of our decisions.

The role of Parliament is clear with the Finance Bill. In the 10<sup>th</sup> Parliament, it was called the Finance and Planning Committee. It was then changed and finance was on one side and then the Budget and Appropriations Committee went the other way. It appears that we began to lose control and cede our powers and we were now under the capture of the National Treasury and the Government. As much as we appreciate that the Government has a role to play, we as the legislators, are the overseers. We have to control and make sure that our operations go the way they are meant to.

It is sad to say that the previous Departmental Committee on Finance and the Budget and Appropriations Committee had become just extended arms of the Executive. I am now pleased to see that each of these Committees are now making a mark. I am proud to be part and parcel of this Committee and any other such Committee. I take my hat off to the Budget and Appropriations Committee too.

On the omnibus Bill, this is tidying up some of the small things that we needed to sort out. On the Finance Bill, one thing that has been forgotten is food security. With food security, we need lesser or zero taxation on agriculture. However, agricultural implements and imports are now being charged VAT. You can get cheaper chicken eggs from Uganda than here. Why? This is because our agricultural implements and seeds are more expensive and we are charged taxation when we should not.

I went to file my returns the other day and I must say that KRA is doing wonders. They are doing so well. The problems we used to have are no longer as evident as before. We need to give them support. When we went to Busia, we were shocked to see that KRA officers do not have toilets and they had to cross the border to Uganda to use their toilets. If you see the assets that are owned by Uganda and see what Kenya owns, you will be more shocked. We do not even have X-ray systems that Uganda has. If we had X-ray systems on our borders, we would be collecting much more money. Hon. Mbadi told us that it is not the additional taxes but that tax systems must be more efficient, effective and representative. The tax systems we have must be 'pro-poor' and not 'anti-poor'. These simple things are very important.

Also, the issue of beneficial interest and control is very important. What was happening is that there was no follow up on control and taxation implications. Now, I just saw something on Kenya Medical Research Institute (KEMRI). One of our senior members of the society said that he had lent money to a particular company and he had no control over it. This is the sort of thing we are talking about. If you lend more money to a company, then you should control it and then pay the tax in respect of that.

Hon. Temporary Deputy Speaker, the issue of transfer of pricing that my Chairperson and Hon. Mbadi brought up is very important. Transfer of pricing is where these multinationals are killing us. Fries from Kentucky outlets cost Kshs200. You can buy the same fries from another seller at Kshs40 and yet the same potatoes have been purchased from Molo. The situation is that

we should ensure the right people pay taxes. We want taxes for the rich. We want stamp duty. We do not want to go and hit the *boda boda* industry. *Boda bodas* are one of the most effective means of transport in this country from point A to point B. We are a *Jua Kali* country and that is how we will become a big industrial country.

Thank you very much, Hon. Temporary Deputy Speaker for that time. I support.

**The Temporary Deputy Speaker** (Hon. Patrick Mariru): We shall now have Hon. David ole Sankok.

**Hon. David ole Sankok** (Nominated, JP): Thank you very much, Hon. Temporary Deputy Speaker for giving me this opportunity also to add my voice on this very important Bill. From the outset, I support and congratulate Hon. (Ms.) Gladys Wanga for elaborating most of the issues and eloquently educating us on these issues.

As the Member before had indicated, I am now happy that we now have two more female Members of Parliament who have just joined Hon. (Ms.) Dennitah Ghata to hear us. It was shocking that they took off immediately Hon. (Ms.) Wanga took the Floor especially when we are discussing their tool of trade that is bread and flour being zero-rated.

We can talk of exemption and collection of taxes if we can broaden the base for collecting our taxes without hurting the poor. We need to protect Kenyan citizens. We are in a country where our social protection systems are really in dire need. For instance, solar energy should be made very cheap and affordable. Cooking gas must also be zero-rated. The cost of paraffin should be reduced because we are going towards green energy yet we are introducing taxes on gas. If you introduce taxes on gas, especially for us who are environmentalists who conserve Mau Forest, we may be forced to invade Mau Forest for firewood because the Government has decided to increase taxes on available solar energy.

Hon. Temporary Deputy Speaker, when I travel to Narok, sometimes I get stranded in Mai Mahiu because the fuel prices have gone up too high. It is high time we talked with the Chairperson of the Departmental Committee on Finance and National Planning so that we can rethink the 8 per cent VAT levy that we added on fuel. We need to remove it. It is time to remove it especially when Kenyans are suffering. In South Rift, we are the highest producers of potatoes and eggs, but eggs are imported from Uganda and potatoes from Tanzania. This is where we need to increase taxes to protect our citizens.

We also need to protect persons with disabilities. In Kenya, we have 400,000 wheelchair users. If each wheelchair costs Kshs30,000, then Kenyans sit on a metal worth Kshs12 billion in terms of wheelchairs. We have 500,000 calipers users in this country and 700,000 crutches users. Most of this equipment is donation from philanthropists outside this country, yet we tax them. Some of the donors have shied away from donating these very important mobility devices because when they donate, they are asked to pay taxes on the donations. So, we should also consider zero rating assistive and mobility devices.

Hon. Temporary Deputy Speaker, are you aware that if my crutches break here and now, I have to be carried by Hon. Kimani Ichung'wah and Hon. Mbadi because those are my friends in the House or else I will have to crawl out of this House?

*(Laughter)*

I cannot allow Hon. Wanga to carry me because the hands can do the moving. We need to zero-rate these devices. We have many Kenyans with corrective disabilities like Kenyans with cleft palates, lordosis, kyphosis, hydrocephalus and bow legs. These ones can be corrected. We have

only one hospital called the Cure International in Kijabe which does corrective surgeries in the whole of East and Central Africa and north and south of Limpopo. We have that hospital, yet the Government is not even aware that it exists. Every year, it conducts 2,000 corrective surgeries to correct some persons' disabilities if they are taken early. The disability is totally corrected. The surgical items for corrective surgeries for Cure International, if possible, should be exempted from tax, so that we can save this country. If we exempt, we will increase the number of those whose corrective surgeries will be performed.

Hon. Temporary Deputy Speaker, Hon. Pukose is arguing with me. I am a beneficiary.

**Hon. (Dr.) Robert Pukose** (Endebess, JP): On a point of order, Hon. Temporary Deputy Speaker.

**The Temporary Deputy Speaker** (Hon. Patrick Mariru): Order, Hon. Sankok. What is it, Hon. (Dr.) Pukose? You have gone into the medical world.

**Hon. (Dr.) Robert Pukose** (Endebess, JP): Thank you, Hon. Temporary Deputy Speaker. With all due respect, Hon. Sankok is making a good contribution, but he is misleading the House. When one makes statements on the Floor, Kenyans are watching. It is not just Kijabe that does corrective surgeries. Even Kenyatta National Hospital, Moi Teaching and Referral Hospital, Kikuyu Orthopaedics and many other facilities do corrective surgeries. That is for record purposes, with all due respect. We need to respect our institutions that do similar work within the region.

**The Temporary Deputy Speaker** (Hon. Patrick Mariru): Hon. Sankok, you clearly cannot engage Hon. Pukose on that one.

**Hon. David ole Sankok** (Nominated, JP): Of course, Hon. Pukose is one of the surgeons who have performed many corrective surgeries and assisted many persons with disability. Sometimes he does it free of charge.

The only thing I forgot is that Cure International, Kijabe, does corrective surgeries free of charge. They do not charge anything at all even when it comes to bed and the food a patient eats while going through surgery. That is what I forgot. They get donations from outside the country and from philanthropists in the country. The African Inland Church (AIC) donates too for those who believe in carrying money in sacks to take to churches. Some of the money that is carried in sacks to churches goes to corrective surgery at Cure International, Kijabe. With due respect to Hon. (Dr.) Pukose, I made a mistake. I should have indicated that it is the only one that does it free of charge. In fact, they follow the person who has had corrective surgery to the village and offer physiotherapy free of charge.

Let us think of 2,600 persons with disability who would have been a burden to the Government. Their disabilities are corrected completely and they are no longer a burden to the Government, yet these items are not exempted from taxes like importing motor vehicles duty free. It reduces the burden. I talk passionately about the Kijabe Mission Hospital because I am a beneficiary of Cure International. After becoming disabled as a result of a doctor's injection when I was 12 years old, we did not know where to go. So, I crawled for almost two years and ended up having more deformities. It is the AIC and some missionaries that directed me to Kijabe Mission Hospital. At that time, Cure International was just a department. I am now proud because I can walk upright and even with a swag. At least, I can walk upright. I used to crawl.

The last bit is that we cannot give our power to the National Treasury. Who will punish the Cabinet Secretary for the National Treasury for overtaxing Kenyans? Is it the President whose bread is paid by the State? But for us, Members of Parliament, Kenyans will punish us if

we increase taxes. Responsibility over taxes should remain in this House and VAT should be controlled by the House.

I support, Hon. Temporary Deputy Speaker.

**The Temporary Deputy Speaker** (Hon. Patrick Mariru): Hon. Maanzo Kitonga, Member for Makueni.

**Hon. Daniel Maanzo** (Makueni, WDM-K): Thank you, Hon. Temporary Deputy Speaker for giving me an opportunity to contribute on this very important piece of legislation. I rise to support it. I congratulate the Chair for elaborating the issues clearly. The whole world has been affected by COVID-19 and everyone is looking at the post COVID-19 era and how to restart economies. That should have featured mainly.

One other thing which is big time in the world is environment. It is kicking in. That is why we now have electric power in many parts of the world already. That technology has not got to us yet. One of the major challenges is environment and its pollution. In fact, there is a world campaign to make sure that there is clean air in many parts of the country. With very little forest cover, I expected no Excise Duty or, at least, tax exemption or zero rate tax on cooking gas. The main reason is that if more Kenyans can afford cooking gas, it means less trees will be cut. People will use clean energy like gas more. Gas is also related to petroleum products and it is a matter for this House and that is why it cannot be controlled from elsewhere. Petroleum products in Uganda are less expensive than the Kenyan petroleum products. That is why at times in the middle of the month, many Kenyans work from home and there are fewer cars on the road. They are trying to save on the expenses of petrol. Those products affect many more other things like transportation. It would make a good case for this House to look at it when we will be doing the Committee of the whole House to make sure that some of the things in the world arena like pollution and use of clean energy are catered for. There is need to especially promote cooking gas because that particular industry has been very creative. We have small and big cylinders. So, if more families use that, then it means that we do not lose trees and the vegetation cover will be saved. We will then be with the rest of the world.

Another matter which is of great importance is the issue of retirement benefit schemes. Managers, custodians and administrators are to be registered so that there is a system. This is very important and I want us to work on it because many people end up in retirement, and again, they are vulnerable to COVID-19 due to their old age. The younger children in school are stronger and survive COVID-19 without much problems as compared to older persons.

Research which has come from the Ministry of Labour and Social Protection that has been confirmed by the Cabinet Secretary of the said Ministry has shown that in the lower eastern region, they had 95 people who lived longer and also in some parts of the Rift Valley. This was associated with certain eating habits and how the younger people in those homes have taken care of the elderly. The issue of taking care of the elderly is very important and beneficial because they carry historical memories. Some of them witnessed Independence when some of us were not there during that time. They saw the struggle. That particular history has to be carried on through stories being told to the younger generation.

When we mistreat our retired older people especially when there is no proper medical care for them, it means that when the problems of COVID-19 and other health associated problems set in, there are higher chances of us losing the older persons in the society. I am sure Kenyans are quite familiar with a number of older persons who were very useful, healthy, strong and walking around before COVID-19, but after COVID-19, we no longer have them.



So, the idea of retirement benefit schemes should be looked into so that they are well managed and the people who are in charge of them make sure that there is no exploitation. At the same time, we should make sure that the terms are favourable so that people can afford medical insurance in that regard as we take care of our older persons. This will ensure that many generations to come benefit and reap blessings for the country. That is one of the issues which had happened.

Kenyans consume bread a lot. So, I congratulate the Committee and the Government for having zero-rated the cost of bread. It should remain like that for quite some time until the economy picks. At times, wheat is grown locally or even imported to make sure that we have enough of it. Wheat products are used every morning and every other time of the day. It is a big industry which also employs many people at this particular moment when industries are closing and many people have lost jobs.

While dealing with this, we should encourage the small and medium enterprises. There are some challenges facing the local industry. One of the things the CS, Ministry of Industrialisation, Trade and Enterprise Development is trying to address, and I am sure about that because I am in the Departmental Committee on Trade, Industry and Cooperatives, is about industrialists who are residents in the country, but may not be citizens of this country. Some of them have come to settle here. They have huge investments here and they pay taxes. However, they face serious challenges when it comes to processing their documentation in the country. For instance, if you are a resident here, but you are not Kenyan-born and you are doing business, when your papers expire and you want to renew them, it takes a long time with a lot of activities going on at the immigration offices.

The Directorate of Immigration has really done a wonderful job despite the challenges of COVID-19 and the huge number of Kenyans making enquiries. The Ministry should make sure that these investors in the country have their paperwork processed and the necessary due diligence done in good time, so that the industry can be lifted to employ more young people. They should also promote SMEs even the *boda boda* business. The *boda boda* people have been very useful in the country by making the movement of people and goods faster, but unfortunately, many of them are not careful when riding and many have lost their lives while using *boda bodas* out of carelessness or lack of observing traffic rules. People also steal *boda bodas* and take them across the border to even reconfigure them into other machines for use in water transport. This is an area that is employing many young people and has also led to self-employment. It is part of the SMEs.

We need to look at that, so that there is more support in SMEs. I want to repeat that this is important and that is how we are going to restart post COVID-19 era so that we can stabilise our economy faster and normalise production and movement of goods.

I support this Bill. I look forward to making more and better amendments during the Third Reading, so that we can serve Kenyans better. I really insist on separation of powers and we must do our duty because we are accountable to the people.

Thank you, Hon. Temporary Deputy Speaker.

**The Temporary Deputy Speaker** (Hon. Patrick Mariru): Let us have Hon. Osotsi Godfrey. He is certainly not in the House.

*(Hon. (Dr.) Robert Pukose spoke off record)*

Yes, you are here, Hon. Pukose, but it is not your time. It is Hon. Wachira Kabinga's time.

**Hon. Josphat Kabinga** (Mwea, JP): Thank you, Hon. Temporary Deputy Speaker, for giving me this chance to contribute to this very important Bill. Last week and today, we are debating what really affects Wanjiku, and anybody who is not around may not have the authority to talk about Wanjiku out there in as far as money in the pocket is concerned. This is where we are putting our minds together.

The Finance Bill is brought to this House during a very unique situation that the country is undergoing. We want to thank the Departmental Committee on Finance and National Planning for being very tight and ensuring that this Bill is as conservative as possible to ensure that we do not increase the load that is already on Wanjiku. It is true that traditionally, all our Finance Bills have focused on taxes as a way of meeting the supply for the Budget that we have just done. It is high time we started thinking of other ways of raising funds, so that we can meet supply without necessarily increasing the burden on Wanjiku in as far as our budgets are concerned.

The Appropriation Bill that we have just passed, 30 per cent of it is coming from the Appropriations-in-Aid. That is an area that I would urge the Departmental Committee on Finance and National Planning to encourage other committees to emphasise on. Nearly all the sectors that we fund have a potential to raise funds by themselves. The problem is the misuse of the funds that are generated from most of these departments. If we can put more emphasis and be more careful in whatever we do, we can raise much more from the sectors that we currently fund through our budgets.

In this regard, in the Departmental Committee on Labour and Social Welfare, we intend to turn the National Youth Service (NYS) into a commercial venture that can generate funds not only for itself, but to support the budget. We are looking at a possibility of using the equipment and strength the NYS so that it not only generates jobs for itself, but works closely with some international companies that we can bring in. We see no reason why we cannot compel all the companies that come here to extend 20 or 30 per cent of their jobs to the NYS that has equipment. We will make use of the manpower of our youth who are out there looking for jobs, generate funds, engage the youth and transfer skills.

In my contribution to the Budget Report, I noted that most of the companies we have here, for example, the Chinese ones, are owned by the Government of China. All we need to do is have the right policies to ensure that some of our Government entities can competitively enter into the business market without unfair practices that are going to kill the private sector. Once we go that way, we will have services to our people, generate money and have a sustainable kind of environment. That is one area of Appropriations-in-Aid that we need to look at. I urge the Departmental Committee on Finance and National Planning to work with all committees that will then work with the ministries they oversee to ensure that they do not just wait for money at the end of the year, but try as much as possible to make use of the opportunities before them. All of them have opportunities. As I said, the traditional practice of them waiting for money and not thinking of how to generate money is what is killing them. We have, for example, the Huduma Centres that have shown that we can generate money.

Another non-traditional way of extending our revenue base is to look at areas like export of labour. I talked about it in the Report. Philippines is currently having foreign remittances in excess of Kshs42 trillion. Our budget is about Kshs3.6 trillion. They are getting about Kshs42 trillion. If we only can generate about kshs1 trillion or Kshs2 trillion out of this market, money would come here and value for our shilling would be strengthened. There would be money in the

pockets of Wanjiku. Small businesses would thrive and taxes would be paid. Therefore, this country will generate more money. Foreign remittances have a positive ripple effect on our budget. We need to look at those areas and ask ourselves how we can reclaim some share from some of the areas taking care of our people, so that when they go there, they do not suffer as they are currently suffering. There are opportunities there. The Departmental Committee on Labour and Social Welfare will be working hard in that area. Because of the short time that we have, we are working towards giving a report to this House which we believe if implemented, will increase our current share, which is about Kshs300 billion to about Kshs1 to Kshs2 trillion in the market. The potential is there. These are some of the areas we are looking at.

I carefully listened to the Report by the Departmental Committee on Finance and National Planning presented by the Chairperson. I want to thank her. She has picked up in that area. I support the idea of zero-rating bread. The current proposal to have that exempted was articulated by the Leader of Minority Party and we hope that it will be accepted by the Treasury so that we zero-rate bread and its associates, including *unga*, so that it is friendly to Wanjiku. We cannot be talking about Wanjiku out there, yet when we have this kind of a Bill in Parliament some of our colleagues who talk about her are not here. So, this is the place to propose ways and means of getting money to her. I encourage the few Members who are here. I am told those who are not here are represented. For our case, we are never represented. We represent ourselves so that when we discuss these ways and means and how we can strengthen our budget and financing, we do it in the House. It is in the House that these things are done. Having zero-rated bread, we believe that people will enjoy much more.

Before my time is over, I want to touch on imported goods. It is high time we increased tax on imported goods. The fact that some countries import our goods should not be a reason to hold us hostage. Some countries are holding us hostage. We cannot increase our import taxes because they are importing our goods. I am looking forward to the day when rice from outside will be taxed at 50 per cent, so that our farmers can enjoy the fruits of their hard labour. These people are given subsidies in their countries.

**The Temporary Deputy Speaker** (Hon. Patrick Mariru): Hon. Kabinga, your time is up. We shall have Hon. Makali, Member for Kitui Central.

**Hon. Makali Mulu** (Kitui Central, WDM-K): Thank you, Hon. Temporary Deputy Speaker. I will start by joining my colleagues to appreciate the Chairperson and the Vice-Chairperson of this Committee for the job they have done in moving this important Bill. I want to agree with those who are saying that this Bill is one of the most important Bills in this House. That is also confirmed by the kind of public participation it attracts. If you look at those who contributed to this Bill through public participation, it is a long list of important institutions and individuals in this country. This is the only Bill that touches every Kenyan. You could be rich or poor. This is one of the Bills where this House should be full to debate it. It is going to affect the people that vote for us. We should be here to say if it good for our people or it is not good for them.

Before I get to the Bill itself, I want to say that two hours ago, we went through the Second Reading of the Appropriation Bill that was presented by the Budget and Appropriations Committee. In that Bill, we are likely to be approving serious amounts to be spent in the next financial year. I want to mention one of the things that has not come out. In that Bill, we have set aside money for what I will call “oversight bodies”. These are bodies like the Auditor-General, the Controller of Budget and the Ethics and Anti-Corruption Commission. One of the things we should be doing is to make sure that the money that goes to these oversight bodies that

assist Parliament to do its work, is seriously used and its budget implementation is done properly.

Why am I saying that? The revenue-raising measures being proposed in this Bill are not friendly to anybody. Nobody wants to give out money and not get value for it. It is going to be painful to Wanjiku and everybody having their money deducted to support public good. It is important that budget implementation is taken very seriously in this country.

There are quite a number of good things in the Bill, but you know, this is taxation. I totally agree with those who say no taxation without representation. You tax people, so they need to be represented. That is why Members are here to represent people. The idea of the Treasury thinking that they can get that proposal to not be overseen by Parliament when it comes to regulation-making should not be there. I really do not want to waste time on that issue. It has been deliberated and we stand by it.

On the issue of bread, I think as a House, we need to agree on one thing. Taxation of basic commodities, commodities without which you will die, should be avoided. Whether it is done through zero-rating or tax exemption, we must make sure that things that the common *mwananchi* uses on a day-to-day basis, even if taxation is applied, it has to be minimal taxation. We should not allow our people to sleep without food. In this country, there are people who live on bread and black tea only. They just boil black tea without tea leaves. It is where you burn sugar to become black before you add water. So, when you talk about taxing bread for such a person, it means you do not live in Kenya. We must guard against taxing basic commodities.

There is another interesting proposal where the KRA is supposed to give more money to people who report on those who avoid tax. The proposal is to move from Kshs100,000 to Kshs500,000, so long as they recover between Kshs2 million and Kshs5 million. This is a good proposal, but it is being made only because we are not honest as a community. You remember at one point when Kibaki was the President of this country, he came up with the clarion call of '*kulipa ushuru ni kujitegemea*'. But what he did, and that was the secret, is that he made sure that any money collected was used for the benefit of Kenyans. Application of the tax collected was very efficient and effective. So, even as talk about giving informants more money, it is a temporary solution. The long-term solution is to let everyone be convinced that they get value for their taxes. When you go to other countries, people are being taxed even up to 70 per cent and they never complain. Here we tax up to 30 per cent. Do you know why those people do not complain? You are taxed 70 per cent, but you access all services and goods almost free of charge. The Government takes care of your medical and education bills and other basics. So, you only need a small amount of money to take care of your luxuries. So, if we apply tax well, there will be no need to induce anybody to be an informant to give information. I will pay my tax because I know I will get value for it. Here is a situation where we are being taxed so that teachers can be employed, but you have to employ board of management (BOM) teachers at your local primary or secondary school. So, why should I pay tax and at the end of the day I am asked to employ three BOM teachers in a school, because the school has no teachers? What we are saying is that we can pay more tax, but let the tax serve Kenyans.

The other important matter is betting. It is not good. That is a fact. So, as a House, we should not shy away from taxing betting activities. Hon. Wanga, I would propose you increase the tax to 50 per cent from 30 per cent. These are guys who never feel the taxation. By taxing them more, you can afford to levy no tax on gas cylinders, bread and motorcycles. On a serious note, in today's Kenya, how do you even think of increasing tax on motorcycles? This is a shame. The fact that we are making this budget in abnormal times does not mean that we lose

our minds. *Boda bodas* run this country. If you play around with that sector, I do not know what will happen, but I can tell you it will not be good. Let us encourage the young men to remain there either by maintaining the current tax or lowering it. Unemployment is a real issue in this country. If we start playing with that sector, it is a time bomb.

As I conclude, there are quite a number of proposed amendments which the Committee has explained to us as a House and we need to support them so that we safeguard Kenyans, more so the common *mwananchi* against what is happening in the country today. The reality of the matter is that as the representatives of the people, we interact with them and they are going through very hard times. This is the time to ensure that we do not make the situation worse for them.

With those remarks, Hon. Temporary Deputy Speaker, I support.

**The Temporary Deputy Speaker** (Hon. Patrick Mariru): Hon. Waweru Kiarie, Member for Dagoretti South.

**Hon. John Kiarie** (Dagoretti South, JP): Thank you very much, Hon. Temporary Deputy Speaker. I am really honoured to contribute to the Finance Bill for this year. I would like to reiterate what had been said from your Chair, that this is a very important business. In fact, it is probably the most important business that this House transacts.

I would like to thank the Committee for the work they have done. I also want to single out the presentation by the Chair of the Committee. It was, indeed, a good boost to what we have been championing for; value in leadership especially leadership by women. It is not enough to be a woman or a young person. To be a woman in leadership, you have to be a woman of substance. So, Madam Speaker, I am really proud to be associated with this lady from my alma mater.

**The Temporary Deputy Speaker** (Hon. Patrick Mariru): Order! You are another Member calling me Madam Speaker. I am not Madam Speaker. I can never be. What is it today?

**Hon. John Kiarie** (Dagoretti South, JP): Apologies, Hon. Temporary Deputy Speaker. I hope my minutes are preserved.

**The Temporary Deputy Speaker** (Hon. Patrick Mariru): What is out of order, Hon. Kimani Ichung'wah?

**Hon. Kimani Ichung'wah** (Kikuyu, JP): Hon. Temporary Deputy Speaker, I really do not want to interrupt my good friend, Hon. KJ. I was also astonished when he referred to you as Madam Speaker. Maybe it is because of the colour of your mask and bundle head. The colour is confusing Members.

**The Temporary Deputy Speaker** (Hon. Patrick Mariru): Order, Hon. Kimani. You are out of order as Hon. K.J. himself.

**Hon. Kimani Ichung'wah** (Kikuyu, JP): I was only trying to persuade you, Hon. Temporary Deputy Speaker, that maybe next time, you can use a mask that is not so dark.

**The Temporary Deputy Speaker** (Hon. Patrick Mariru): Order, Hon. Kimani. And be careful when you address the Speaker in that manner. Hon. Waweru, I am Mr. Speaker, not Madam Speaker.

**Hon. John Kiarie** (Dagoretti South, JP): Hon. Temporary Deputy Speaker, I pray that my minutes have been preserved. I would like to apologise profusely. I was carried away by the statement on women leadership when I was busy congratulating this very educated lady from my alma mater to show that we went to good schools and got good education.

Hon. Temporary Deputy Speaker, as we debate the Finance Bill, we have to realise that budget-making is the business of this House. If we have any issues with this Finance Bill, the remedy is to bring amendments to this House.

I support and would like it to be on record that I shall be bringing amendments. I will be calling upon Members who have similar amendments so that we sit down and coalesce our ideas and come up with unified amendments to the Finance Bill.

It is important we amend the matters that have to do with LPG. We need to ensure that Kenyans have access to cooking energy. The Kenyans I am talking about are the ones like those who live in Darogetti South Constituency – my Constituency. There, we do not have forests where we can go and harvest firewood. Also, by increasing the taxes on LPG, we shall be occasioning a double jeopardy on our people. These are the people who depend on either gas or kerosene to cook. Tax on fuel was increased. If we increase tax on LPG, we shall be occasioning a great disservice on the people who depend on it. My amendments will be seeking to be in line and in tandem with the Government's agenda on green energy.

If we are serious about promoting green energy in this country, let us make it affordable. I shall be bringing amendments to remedy the LPG situation.

There is a product in the market going by the name Lyft. It is a very ingenious method by tobacco manufacturers to have tobacco consumed in pouches that are put in the mouth and they melt out giving a feeling of euphoria to the consumer.

This Lyft product is a direct injection of tobacco into one's bloodstream. We have passed laws against tobacco. We have been trying to manage tobacco consumption. We are a country that is suffering from a calamity called cancer. The expense incurred in curing cancer-related diseases is a burden that is carried by the normal mwanachi. The money comes from the taxes that mwanachi pays. We know families that are one hospital bill away from poverty. In encouraging the consumption of tobacco products, which we know are dangerous drugs... Hon. (Dr.) Pukose will tell you tobacco can occasion close to a thousand ailments. In that sense, I believe it would be in order to occasion a sin tax on anything that is tobacco related because one can choose not to smoke, but cannot want not to have a meal.

When canvassing issues in this House, we have to be careful not to be the proverbial Marie Antoinette from France: the lady who infamously asked the people of France to consume cake because there was no bread. When people rose up against the establishment because of the price of bread and the lack of it in the market, she asked why they would be revolting about bread and why they would not have cake.

We cannot be telling Kenyan hustlers to have cake because we have increased the price of bread. The basic issue we should do is to take care of the common *mwananchi* so that they can afford food. We shall, therefore, be seeking to make an amendment to address this matter on bread.

It is important we look at the issue of money transfer. We know that 72 per cent of Kenyans have a mobile money account. Mobile money transfer is the bank for the unbanked in this country. We should not have any taxes imposed on transactions that are less than Ksh5,000.

The situation is dire. We know how our economy is like on the ground. Let us be conscious about the people who are transacting business on this mobile money platform. I, however, know that the Budget is about balance. As we are taking away mobile money, it shall be in order to relook at the money transfers that are done in banks. You will not find a bank if you go to where the lowest in our society live. You will not have the brick and mortar of a stone bank. This means that the bank transfers that are done in the banking halls are done by the wealthy and affluent. In seeking a balance, by giving remedy to mobile money transfer, we essentially increase what it is we are charging for bank transfers and other charges that are done by banks.

I have a raft of amendments that I shall be proposing to the Finance Bill. I pray that they shall be taken into consideration because if they are not, some of us will have no option but to reject it. I look forward to proposing my amendments when the time is due.

Thank you very much.

**The Temporary Deputy Speaker** (Hon. Patrick Mariru): Hon. Milemba Omboko, kindly, have the Floor.

**Hon. Omboko Milemba** (Emuhaya, ANC): Thank you, Hon. Temporary Deputy Speaker for this opportunity.

At the outset, it is good to congratulate the Mover of the Bill. Hon. Wanga was able to go through the Bill easily and in an elaborate manner that every person would understand, leave alone the demands for having a degree or none. I am sure everybody was able to understand it, which was very good. You will almost imagine she had a very serious economist and an accountant behind her. That is something which the Committee did. I, therefore, congratulate the Committee.

The Finance Bill is crucial to Kenya. This is where the Government looks at how to fund the Budget that we were dealing with a few days ago in terms of the supply items. We have to be hawk-eyed to see that it is the raising of funds by Government that is hurting the economy or *mwananchi* severely. It is important we make our comments.

I begin by speaking on the issue of flour, bread and taxes on basic requirements and needs of the people. There are certain basic needs that every family would require. Other than flour and bread there is the cooking gas. We have been toying around with the issue of cooking gas for some time and delaying VAT on that particular item. As Parliament, we should consider extending that reprieve on cooking gas. What has happened is that with increased price of paraffin, which was mostly used, most of the families are now relying on cooking gas. Cooking gas should, therefore, not be taxed in form of VAT, leave alone bread which I have already spoken about. Let it remain zero-rated.

I support the Chair and the Committee on that one. Also, flour should not be taxed so that *mwananchi* is not hurt.

My predecessor speaker was trying to allude to the French Revolution where the price of bread became too high that those in the civility and the nobles who were living in the palaces did not know that the normal *mwananchi* could not afford cakes, leave alone bread. He did not also mention the number of shoes that that lady, Maria Antoinette, had. Her pairs of shoes were overwhelming. That description in history shows the difference and gap in living standards between those who were rich and those who were poor and it is very important that we remain with the local man when it comes to issues of taxation. So, let them be protected.

The next person to protect is the *boda boda* person. I know even if I do not have time, I will just pick three items. The *boda boda* industry, given the high level of unemployment, has employed too many youths on the ground. The *boda boda* industry has overcome the old system where our teachers, and I am a teacher myself, were the main controllers of the economy in the village. Currently, if you go to your constituencies, you realise that the *boda boda* industry is the main arm guarding the village economy. These are people who come out without any capital at all. They go into business by the first item renting the item we call *pikipiki*; motorcycle. They only pay a certain rent on a motorcycle, but they are actually rented from an owner. Therefore, it has a chain. It has a multiplier effect within the society. The owner of the *pikipiki* may not be the rider. The rider is only paying rent to an owner of the *pikipiki*. I want to support the Committee

and the Chair that this is an area we should not go to into in terms of raising any form of tax for the *boda boda* riders. If anything, we should be thinking of removing any other form of taxes that would hinder the industry from growing.

Hon. Temporary Deputy Speaker, there is the issue of the NHIF. It is very dear to me because apart from it supporting the old and the vulnerable in the society, it also supports all the workers of this country. Again, it has been disadvantaged because it never had any tax relief unlike all the other insurance providers. This is why even today teachers sometimes ask us why they cannot be put under the NHIF. The disadvantage that the NHIF was facing was that it was not enjoying tax reliefs, which other insurance companies enjoyed. They can easily compete against it when it comes to winning and getting opportunities to insure the masses of workers of this country. This is a very good proposal which I support 100 per cent. Let the NHIF also enjoy the tax relief that all other insurance companies enjoy.

The other issue that I would like to talk about is the issue of post-retirement medical cover for the workers of this country. The truth is that this particular proposal is very good for all the workers of Kenya. Once most of the workers leave employment, they lose everything and there is delay in the time they can receive their pension, but what hits them the most is medical cover. How many times will you be told that we do not have medicine for an old person who retired? He will retire and does not have medicine yet he has not received his pension from the National Treasury. He is not earning anything else from the Government or whatever employer he had. Therefore, this is a very good proposal, but we shall have to look at the regulations that will come with this proposal on the creation of a post-retirement medical cover because we want to know how it will be paid. Is it paid during the time when the worker is still in employment or later? We have to craft very good regulations, so that it does not hurt the workers.

Hon. Temporary Deputy Speaker, there is the issue which was generally spoken about by the SRC, although we are still pursuing it as a trade union movement, of freezing all collective bargaining agreements (CBAs). We agreed that we have COVID-19, but could we look at a possible way to support workers through certain reprieves like we had during the COVID-19? I am happy you are looking in my eyes. Reprieve like through the PAYE, the Corporate Tax, or the Income Tax, but definitely PAYE for workers. As we support everybody else and ask workers to take reprieve from what otherwise should have been their rights, which we shall discuss elsewhere, this is the correct law to propose a raft of measures on how to support workers who are also greatly hit by COVID-19 as we progress.

Finally, is the issue of TVET. The proposal by the Chair looks like it will limit the number of people who will be absorbed within the sector and even the SMEs taking up the recruits of TVET who are all over the place. We have too many TVETs. Let us make a law that says that we possibly retain it at 10, so that companies and such businesses are attracted to employ more and compete to get to a figure of 10, so that they can get this reprieve that we are talking about. If we make it too low as to two, then I do not think we shall achieve the original mindset that we had in the creation of that particular amendment.

Hon. Temporary Deputy Speaker, there was the issue of tax on confectioneries and I think not many people have spoken on this. Confectioneries have employed many Kenyans and most of them are local industries that make sweets, cakes and chocolates. If we impose serious tax on confectioneries, all we shall do is to lose our people. Our people will lose employment. Therefore, I stand with the Committee on the fact that we should protect the local industries running confectioneries.



Lastly, for those musicians who are online, please, let us not tax them. They are young people trying to start businesses online. If we take tax to online platforms, it will hurt them. Please, let us protect the young artists in Kenya who are going that direction.

With those many remarks, I want to thank you, Hon. Temporary Deputy Speaker, and I totally support.

**The Temporary Deputy Speaker** (Hon. Patrick Mariru): Hon. Kimani, you have the Floor.

**Hon. David ole Sankok** (Nominated, JP): Which Kimani?

**Hon. Kimani Ichung'wah** (Kikuyu, JP): There is only one Kimani in the House at this time. Hon. Sankok was asking which Hon. Kimani. I am telling him there is only one in the House, and thank you for the mask.

Hon. Temporary Deputy Speaker, I rise to support the Committee's Report. Let me begin by thanking the Chair, Hon. Gladys Nyasuna Wanga, for the very good exposition she made of their review of the proposals in the Finance Bill. One of the things I truly appreciate that the Committee has done is to be very cognisant of the times we are living in today. The Committee has appreciated that with the COVID-19 Pandemic and very many people having lost jobs, we cannot afford to increase taxes at this time especially on very basic commodities like bread, wheat and maize flour, with the proposals that was there in the Finance Bill to move some of these things like bread and maize flour from being zero-rated. In addition, they have maintained the zero-rating of commodities like bread, maize and wheat flour. This then means that our bakers and millers can claim back their input VAT and, therefore, the prizes of bread and flour remain unchanged.

I also appreciate the deletion of some of the clauses that had also been proposed especially the clause as has been alluded to by Hon. Omboko on increasing Excise Duty on motorcycles by 15 per cent. It is true that very many of our young and vulnerable people have no jobs and this include graduates as much as the debate now is on whether Members of Parliament, Senators and members of county assemblies (MCAs) should be graduates. However, many of our graduates are out there riding motorcycles and it was very insensitive of the National Treasury and the Executive to think of increasing Excise Duty on motorcycles in a sector that is employing thousands of Kenyans, many of whom are very well educated, but because of lack of jobs, they have not done any other thing other than to ride motorcycles.

As Hon. Omboko has said, many of them are even riding motorcycles that they hire or lease from the actual owners. If you increase Excise Duty on motorcycles, you will make them more expensive. You may assume probably it will only increase by Kshs15,000, but Kshs15,000 to a motorcycle rider, a hustler, is high.

**Hon. (Ms.) Shamalla Jennifer** (Nominated, JP): On a point of order, Hon. Temporary Deputy Speaker.

**Hon. Kimani Ichung'wah** (Kikuyu, JP): Hon. Temporary Deputy Speaker, if you can protect me from some of these unnecessary points of order.

**The Temporary Deputy Speaker** (Hon. Patrick Mariru): Order, Hon. Kimani. The Member has raised a point of order. It is not for you to say whether it is valid or not.

**Hon. Kimani Ichung'wah** (Kikuyu, JP): You wait, you will hear.

**Hon. (Ms.) Shamalla Jennifer** (Nominated, JP): Thank you, Hon. Temporary Deputy Speaker. Apologies I am unable to find my card. I rise on a point of order, more specifically on Standing Order No.77 on proceedings to be in English, Kiswahili or Kenyan Sign Language.

Nowhere in this particular Order do we refer to slang. I take exception to the word ‘hustler’ being used consistently in this House. I wish to define the word “hustler”.

*(Loud consultations)*

If I can get protection, then they can also contribute.

**The Temporary Deputy Speaker** (Hon. Patrick Mariru): Hon. Jennifer, I also cannot get where you are going because that Standing Order you have referred to is about Kiswahili, English and Sign Language.

**Hon. (Ms.) Shamalla Jennifer** (Nominated, JP): The term “hustler” is slang and it refers to a person who obtains money by fault or deceit. A scammer!

**The Temporary Deputy Speaker** (Hon. Patrick Mariru): Order, Hon. Jennifer, you know there is a discussion here and there is a discussion elsewhere. “Hustler” is an English word certainly. It could have certain connotations and I can tell Hon. Kimani’s connotation on hustler is different from yours, but that is a different matter altogether. Let us remain on course, Hon. Jennifer.

**Hon. Kimani Ichung’wah** (Kikuyu, JP): Thank you, Hon. Speaker and I wish she can learn to first read and conceptualise what the Finance Bill is about, then she would have the capacity to interrupt serious matters with unnecessary things.

I was talking about the young Kenyans who are hustling out there using motorcycles. The Kshs15,000 may be meaningless to the Hon. Nominated Member of Parliament, but Kshs15,000 to somebody hustling out there means a lot. Therefore, protecting these young people is very important to me.

The other issue that I must appreciate the Committee for doing is touching on the issue of deleting Clause 20 that sought to remove the role that this House plays in subsidiary legislation. It has become customary in this country to continue to claw onto the mandate and responsibilities of the Houses of Parliament by the Executive. Clause 20 was in furtherance of that State capture or the Executive capture of the Legislature. I must thank the Committee because it has led this House in denying the Executive the opportunity to capture the Legislature further. In view of that, if you look at some of the things that have been done, and I will be bringing amendments in relation to this, we are allowing the Executive to abuse subsidiary legislation to an extent that today in this country, the Cabinet Secretary or anybody in the National Treasury can sit and on their own volition or at the instigation of other forces out there, decide to give remission on duty on even sinful things like beer, cigarettes and wines. I am not saying those who partake of those things should not partake them, but these are rich men and women. These are people who can afford all these commodities irrespective of how much you tax them. Therefore, I intend to bring amendments to ensure that approval of any remission on duty on beer, wines, cigarettes and all those sinful commodities is sought from this House.

You remember we convened for a Special Sitting last month to give remission on the minimum tax to Kenya Airways. We brought that matter to this House and we sat here a whole afternoon deliberating on approval of giving Kenya Airways remission of minimum tax. Why is it that we should not come and sit here and approve remission on Excise Duty for beer or wines? I intend to bring amendments to that effect.

Hon. Temporary Deputy Speaker, there are also issues that I do not want to repeat, but many Members, including David ole Sankok have spoken to, like the issue of imported products especially agricultural products. We are importing potatoes. Probably, your children and my

children are lining up at Kentucky Fried Chicken (KFC) and other expensive outlets in town. You will be shocked that KFC and many of those franchise companies today are importing potatoes from South Africa, United States of America (USA) and Mexico yet farmers in Kikuyu and Ndeiya are growing potatoes. Farmers in Kipipiri, where the Leader of the Majority Party comes from, are growing potatoes, but the potatoes are rotting in our farms because people are importing potatoes from as far as Mexico, South Africa and the USA. The same business if you go to Gachie or Wangige markets, eggs are coming from South Africa, China and our farmers cannot sell their products. I intend to bring amendments to make sure that we levy more taxes on imported agricultural products like potatoes and eggs to make sure that they become very expensive to import. This is because those who buy from those outlets can afford.

In conclusion, we have no business being here if we will continue to allow the Government to continue taxing more money on fuel and cooking gas. For example, the 8 per cent Value Added Tax put on fuel and the VAT proposal on cooking gas.

**The Temporary Deputy Speaker** (Hon. Patrick Mariru): Very well. Before we go to the far end to Hon. Gichuki Mugambi, let us have Hon. (Dr.) Robert Pukose.

**Hon. (Dr.) Robert Pukose** (Endebess, JP): Nashukuru, Mhe. Naibu Spika wa Muda, kwa kunipa fursa kuchangia hii *Bill* ya mambo ya *finance* ambayo ni muhimu ya kukusanya ushuru ili kuweza kuchangia katika Bajeti yetu ya Mwaka 2021/2022.

Kwanza, nashukuru Kamati ikiongozwa na Mhe. (Bi) Gladys Wanga kwa kazi nzuri ambayo imefanya. Jambo ambalo nimeona la kushukuru na ambalo tutaliunga mkono ni mambo ya kuongeza ushuru kwa mambo ya pikipiki; kwa watu wa boda boda. Waziri wa *National Treasury* katika Bajeti yake alipanga kuongeza ushuru kwa mambo ya pikipiki kwa asilimia 15. Kamati imeangalia na sisi kama Wabunge tunaiunga Kamati mkono kwamba huo ushuru utolewe kwa mambo ya pikipiki ili watu wa boda boda waweze kufanya kazi yao kwa njia nzuri.

Mhe. Naibu Spika wa Muda, kama ujuavyo, saa hii tukiwa katika msimu huu wa Coronavirus, watu wengi wanafanya biashara ya boda boda. Ukiangalia, kwa mfano, juzi jumamosi katika eneo Bunge langu la Endebess, vijana wa boda boda walikuja kwangu wakasema, “Mhe. saa hii vile *lockdown* imewekwa, sisi kulipia pikipiki ni vigurmu”. Unajua wengi wanachukua boda boda kwa deni ili wanaposafirisha watu, wanatengeneza pesa ili waweze kulipia. Kwa sasa, kulipia hizo pikipiki ni shida. Ikiwa tutaongeza ushuru wa asilimia kumi na tano, tutafanya biashara ya boda boda kuwa ngumu sana. Hawa ni watu ambao mapato yao ni ya chini na wanatafuta namna ya kuishi. Kwa hivyo, naunga Kamati mkono asilimia mia inaposema kuwa ushuru kwa boda boda utolewe.

Jambo lingine ambalo limesemwa na Mheshimiwa K.J, Mbunge wa Dagoretti South, ni kuwa LPG gas imewekwa ushuru. Vile tujuavyo, katika nchi yetu wakati huu, tunajaribu kuchunga mazingira. Tunapochunga mazingira, inafaa tuhakikishe kuwa wananchi wanatumia *environmental-friendly sources of fuel*. Nafikiri Waswahili wataitafsiri vizuri kusema tuchunge mazingira yetu. Ili tuchunge mazingira yetu, inapaswa tupike chakula kupitia LPG gas. Bei ya mafuta taa imeenda juu kwa sababu ya ile tabia ya watu kuchanganya mafuta taa na petroli. Kwa hivyo, *the Ministry* ilisema kuwa ni lazima tuweke ushuru wa juu kwa mafuta taa ili wanabiashara wasichanganye na kudhuru magari yetu na kutuletea hasara.

Tunapohimiza wananchi watumie LPG gas kwa kupika, inapaswa tuangalie kuwa ushuru wa LPG gas, *especially* VAT ambayo imewekwa, ifanyiwe *zero-rating* kama tulivyofanya kwa mkate. Serikali ilitaka kuongeza ushuru kwa mkate. Kamati ilianguka hiyo na kusema hapana. Ushuru uliowekwa kwa mkate si sawa kwa sababu mkate ni *food security*. Ni chakula ambacho kinaliwa na watu wengi. Kwa hivyo, Kamati ilisema ushuru kwa mkate utolewe. Mimi na

wengine hapa Bunge tunaiunga mkono Kamati kwa sababu wameangalia kuwa wananchi wa kawaida wanakula mkate, *especially* katika *institutions* nyingi na familia. Mkate ni chakula. Kwa hivyo, tusiweke ushuru kwa chakula kwa sababu tunapofanya hivyo, tunaumiza Mkenya wa kawaida.

Kwa hayo mengi, nashukuru na kuunga mkono Kamati katika marekebisho ambayo wataleta ili kuhakikisha kuwa mtu wa kawaida anapata afueni, hasa katika bajeti ya mwaka huu. Naunga mkono Mswada huu.

**The Temporary Deputy Speaker** (Hon. Patrick Mariru): Let us have Hon. Mugambi.

**Hon. Gichuki Mugambi** (Othaya, JP): Thank you very much, Hon. Temporary Deputy Speaker. I would like to start by congratulating the Chairperson for the great moving of the Finance Bill.

The Finance Bill has done a great job in terms of housekeeping on tax matters in a number of areas. I would like to commend them for reducing the amount of work that accountants have been doing using the reducing balance method on the calculation of the investment allowances and making it very easy through the straight-line method. We need to keep straightening and reducing the amount of work on the administration of our tax system and make it friendlier and easier. This will make more people to comply and file tax returns without it looking very complicated.

I would also like to commend the zero-rating of a big range of medicaments and para-medicaments, especially those that boost immunity in human beings during this time of COVID-19. We hope that those who distribute them will pass the benefits to the consumers to ensure that a cross-section of Kenyans use them and boost their immunity during this time of COVID-19.

Hon. Temporary Deputy Speaker, as much as I support the Chair in opposing the tax on infant milk, I want to encourage our ladies to breastfeed children more because mother's milk is healthy. It boosts immunity. We need a strong nation. Even the psychologists say that the suckling of children boosts their honesty and trustworthiness. As much as I oppose the tax on infant milk, we encourage our mothers to take the job of suckling more seriously and continue suckling our generations.

There is the issue of tax administration. The Chair has read a raft of measures that will regulate a number of bodies. I take the issue of the Capital Markets Authorities Act. We have a problem in this country. I can confidently say that CMA presides over pyramid schemes in this country. We have a number of them which are running and extorting Kenyans. An organisation is formed and it announces high-yield funds. It tells Kenyans that they will earn 20 per cent or 30 per cent interest. Once they collect money from the people, they tell them that they are unable to pay back because there is COVID-19 Pandemic. Anytime I go to my constituency where people have a strong culture of saving, the big part of my queues are people who come with papers to show me how much they have been defrauded by pyramid schemes. It is not my big job to name them. We know that Cytonn has really messed Kenyans.

If you go online today, they are still advertising. They are still telling Kenyans to take their money to them for high-yields, and yet they have not paid their members for the last two years. That is why we have CMA. Kenyans should have faith in any organisation which is registered and regulated by the CMA. However, this is not the case. You remember the other one that told Kenyans to buy land and they will have their money back in three years. Kenyans invested. We need to strengthen CMA and ensure that it does its job. These kinds of pyramid schemes which are disguised as investment vehicles should be dealt with. The last time I was in my constituency, I met a very young man who made his money by selling hay. He invested his

hard-earned cash to the tune of Kshs18 million. He is diabetic and sick. However, he cannot access medical services because his money is tied in some of these pyramid schemes.

We also need to tighten the definition of the word “control”. The definition that we have given the word “control” is messy. I know the gracious Chair has alluded to it. Saying that somebody who buys 80 per cent of your goods has control cannot be true. It will increase vagueness in our tax regime.

**The Temporary Deputy Speaker** (Hon. Patrick Mariru): Order, Hon. Mugambi Gichuki. It is 6.30 p.m. The House must rise. When this Bill resumes this evening, you will have three minutes to prosecute your case. For the other Members, the business will still be on the Order Paper this evening. A number of Members had registered their interest to speak. You still have a chance to contribute.

**Hon. Gichuki Mugambi** (Othaya, JP): Thank you, Hon. Temporary Deputy Speaker. I will continue in the Evening Sitting.

### ADJOURNMENT

**The Temporary Deputy Speaker** (Hon. Patrick Mariru): Order, Hon. Wanga. Hon. Members, the time being 6.30 p.m., this House stands adjourned until today, Tuesday, 22<sup>nd</sup> June 2021, at 7.00 p.m.

The House rose at 6.30 p.m.